United States Court of Appeals

for the Second Circuit

APPENDIX

76-5029

United States Court of Appeals

FOR THE SECOND CIRCUIT

No. 76-5029

In the Matter

of

INTERSTATE STORES, INC., formerly known as
INTERSTATE DEPARTMENT STORES, INC., *et al.*,

Debtor-Appellees.

DOMINICK'S FINER FOODS, INC.,

Appellant,

—and—

JOHN E. HANCOCK and AMF INCORPORATED,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX

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UNITED STATES COURT OF APPEALS
FILED
OCT 8 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

PAGINATION AS IN ORIGINAL COPY

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Docket Entries

Paper #

DATE	PROCEEDINGS
10/22/75	(303) Filed ORDER modifying stay as to Eileen Broadwell. So ordered Cannella, J. dated 10/21/75.
12/12/75	(304) Filed NOTICE OF ENTRY of order filed 11/17/75.
1/9/76	(305) Filed JUDGMENT #76,022, in favor of the Trustees against Action West in the amount of $2,089.08. Certified Copy signed by Bankruptcy Judge Ryan, 12/12/75. Judgment Entered 1/8/76 Raymond F. Burghardt. m/n : Levin & Weintraub 225 B'way N.Y.N.Y. Shea, Gould Climenko and Kramer 330 Madison Ave, N.Y.N.Y. & Joseph Crowley 140 West 62Nd Street, New York, N.Y.
1/9/76	(306) Filed JUDGMENT #76,023, in favor of the Trustees against Knoxville in the amount of $2,333.86. Certified Copy signed by Bankruptcy Judge Ryan, 12/12/75. Judgment Entered 1/8/76 Raymond F. Burghardt. m/n: Levin & Weintraub 225 B'way N.Y.N.Y., Shea, Gould Climenko and Kramer 330 Madison Ave, N.Y.N.Y. & Joseph Crowley 140 West 62nd Street, New York, N.Y.
1/20/76	(307) Filed Brief in Opposition to Motion tp Expunge,f.
1/18/76	(308) Filed Notice of Settlement. RE: Notice that the order that is attached to this settlement was signed by Judge Ryan. dated 2/2/76.
2/20/76	(309) Filed NOTICE OF ENTRY of Bank Judge's order dated 2/11/76.
2/20/76	(310) Filed NOTICE OF ENTRY of Bank Judge's order dated 2/11/76.
2/20/76	(311) Filed NOTICE OF ENTRY of Bank Judge s order dated 2/11/76.
4/29/76	(312) Filed AFFIDAVIT of Phillip Sweedler.
5/4/76	(313) Filed MEMORANDUM OF LAW on behalf of The Savings Bank of Utica as presented by Evans Severn Bankert & Peet. f.
7/19/76	(314) Filed OPINION & ORDER: The order of Bankruptcy Court dated 5/24/76 authorizing the Trustees for the Chap. X debtor to consummate the sale of certain property located in Chicago Heights, Illinois is vacated. This matter is remanded to the Bankruptcy Judge for further proceedings in conformity with this opinion. So Ordered Cannella, J. dated 7/19/76. Copy to Bankruptcy Judge. Levin & Weintraub 225 B'way NYC, Joseph R. Crowley 140 W. 62nd St. NYC. & Shea Gould Climendo & Kramer, 330 Madison Ave, NYC 44795
7/30/76	(315) Filed Notice of Appeal to the District Court by AMF Incorp,, from the order of Bankruptcy Judge Ryan.
7/30/76	(316) Filed Designation of Record and Statement of Issues on appeal.
7/30/76	(317) Filed Transcript of Testimony dated 6/28/76.
7/30/76	(318) Filed COPY of MEMORANDUM sub By: Krause Hirsch & Gross.

FPI M—8 28 73 75M 5140

CONTINUED ON PAGE 33

BEST COPY AVAILABLE

PAGE 33 INTERSTATE STORES, INC. 74 B 614-802

DOCKET NUMBER

DATE	PAPER #	PROCEEDINGS
7/30/76	(319)	Filed BRIEF on behalf of Respondent-Appellee Dominick's Finer Foods, Inc. Sub By;/ Gilenbock & Barell.
7/30/76	(320)	Filed BRIEF in support of motion to set aside order of sale. Sub By: Rogers Hoge & Hills.
7/28/76	(321)	Filed Appellant's Designation of record and Statement of Issues.
6/18/76	(322)	Filed NOTICE OF APPEAL to the USDC from so much of th order of Bankruptcy Judge Ryan dated 6/16/76 by Bankers Trust Co., Chemical Bank, Citibank,N.A., et al. f. RET: in front of Judge Cannella.
8/4/76	(323)	Filed Appellee's Designation of Contents of Record on Appeal. f.
8/6/76	(324)	Filed ORDER enlarging time pursuant to Bankruptcy Rule 906(b). So ordered Cannella, J. dated 8/5/76.
8/10/76	(325)	Filed MEMORANDUM of the SEC. f..
8/10/76	(326)	Filed AFFIDAVIT OF SERVICE of Meryl E. Wiener. f.
8/12/76	(327)	Filed NOTICE OF APPEAL to the USCA from the order of the District Court Judge Cannella dated 7/19/76 by Dominick's Finer Foods. M/N; f.
8/13/76	(328)	Filed NOTICE OF APPEAL to the USCA from the order the the Bankruptcy JudgeRyan dated 6/25/76 by Securities and Exchange Commission. f.
8/13/76	(329)	Filed DESIGNATION OF CONTENTS OF RECORD. f.

A TRUE COPY
RAYMOND F. BURGHARDT, Clerk

By M. Gil
Deputy Clerk

Notice of Appeal to the Court of Appeals for the Second Circuit

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al., Debtors.	NOTICE OF APPEAL 74 B 614-802, inclusive

Notice is hereby given that Dominick's Finer Foods, Inc., hearby appeals to the United States Court of Appeals for the Second Circuit from the order of United States District Judge John M. Cannella, dated July 19, 1976 and entered on this action on July 20, 1976, (i) vacating the order of Bankruptcy Judge Edward J. Ryan, dated May 24, 1976 authorizing the consummation of the sale of certain real property to Dominick's Finer Foods; and (ii) reversing the oral Order of Bankruptcy Judge Ryan issued June 28, 1976, denying a motion to vacate the prior May 24 order.

Dated: New York, New York
August 13, 1976

COLLENBOCK AND HARELL

By: _____
A Member of the Firm
Attorneys for Dominick's
Finer Foods, Inc.
645 Fifth Avenue
New York, New York 10022
212-135-9300

BEST COPY AVAILABLE

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

Phyllis Manno , being duly sworn, deposes and says: I am not a party to the action, am over eighteen years of age, and am employed by Golenbock and Barell,

~~; under penalty of perjury, states: I am an attorney at law admitted to practice in the State of New York and am associated with Golenbock and Barell,~~

attorneys of record for Dominick's Finer Foods, Inc. herein.

On August 11, 1976 , I served the within

Notice Of Appeal

upon

(See attached list.)

attorney(s) for in this action, at

and upon

the address(es) designated by said attorney(s) for that purpose,
by depositing (a) true copy(ies) of same enclosed in (a) postpaid properly addressed wrapper(s) in a (post office) (official depository) under the exclusive care and custody of the United States Postal Service Department within the State of New York.

Dated , 19 .

(Attorney At Law) - (Employee)
Phyllis Manno

Sworn to before me, this
day of , 19 .

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[illegible]
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New York, New York 10036

[illegible]
[illegible]
[illegible]

[illegible]
[illegible]
[illegible]

Judge Cannella's Opinion and Order Dated 7/19/76
(Order Appealed From)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

In Re:

INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,

Debtors.

----------X

OPINION AND ORDER

74 B 614-802
Inclusive

FILED
JUL 20 1976
EDWARD J. RYAN
BANKRUPTCY JUDGE

CANNELLA, D.J.:

The order of Bankruptcy Judge Ryan* dated May 24, 1976 authorizing the Trustees for the Chapter X debtor to consummate the sale of certain property located in Chicago Heights, Illinois is hereby vacated.

---

* Pursuant to Bankruptcy Rule 10-103(a)(2), this Chapter X case was referred to Judge Ryan for all purposes save those expressly reserved to the district court by Rule 10-103(a)(1). This appeal is before this Court by reason of Rule 10-103(a)(1) which provides that appeals from decisions of bankruptcy judges hearing Chapter X cases by reference are to proceed in the same manner as any appeal from a determination of a bankruptcy judge.

THE FACTS

On April 20, 1976 the Trustees of Illinois Topps Realty Corp. ["Topps"], a subsidiary of Interstate Stores, Inc. and a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act, entered into a contract for the sale of land with Mr. John Hancock. By the terms of this contract Topps was to sell and Hancock was to buy certain property and improvements thereon located in Chicago Heights, Illinois. The purchase price was to be $650,000.00 with Hancock paying $45,000.00 on the execution of the contract, $401,641.57 in cash at the closing and $203,358.43 by taking the property subject to the existing first mortgage.

As a condition precedent to Hancock's obligation to purchase the property, the contract provided that "The Final Order shall have been obtained." (Agreement of April 20, 1976 at 4.1(a)). The Agreement provided that

> The words "Final Order" shall mean an Order issued by the District Court having jurisdiction over the proceedings for the reorganization of the Seller (nos. 74B514-802, inclusive) after notice by the means and to the parties designated by the District Court and a public hearing before the District Court and with respect to which the time to appeal or further to appeal has expired and which grants to Seller the legal authority to enter into and to observe, fulfill and perform all of the terms and conditions of this contract and the Option Agreement.

Agreement at 1.2(e).

By application dated April 29, 1976 the Trustees moved before Judge Ryan for the entry of an order "Approving the agreement with John E. Hancock dated April 20, 1976...." On April 30, 1976 Judge Ryan signed an order to show cause providing for a hearing before him on May 17, 1976 as to why the application seeking approval of the April 20 Agreement should not be granted. Judge Ryan also ordered that notice in the form of a notice annexed to the application be made upon 23 parties whose names were contained on another exhibit to the Trustees' application. The notice stated that on May 17, 1976 the Court would hold "a hearing for the consideration of an application for an order (i) approving an agreement between John E. Hancock ('Hancock') and the Trustees ... to sell to Hancock the property and improvements at 160 West Joe Orr Road, Chicago Heights, Illinois, for the price of $650,000...."

On May 17, 1976 the hearing commenced before Judge Ryan. At the outset of the hearing counsel for the Trustees reported that on May 10, 1976 the Trustees received a call from a party indicating an interest in the Illinois property. The Trustees responded to the call by providing the interested party with "pertinent data" regarding the property and the April 20, 1976 contract of

sale. The attorney for the Trustees also informed Judge Ryan that the fact that a potential buyer had come into the picture had been conveyed to Hancock on Thursday, May 13.

Judge Ryan then asked if any person desired to purchase the Illinois property. An attorney representing Dominick's Finer Foods, Inc., replied that his client was prepared to and did in fact offer $675,000.00 for the property. The Trustees' counsel then indicated in response to Judge Ryan's question that the Trustees were satisfied with the financial condition of Dominick's. Mr. Hancock's attorney then stated, "we don't wish to raise our offer at this time, your Honor." Judge Ryan then afforded Hancock 15 minutes or a half-hour to reconsider his bid. His attorney declined the offer and stated that they were not prepared to top Dominick's bid at that time. However, after brief colloquy between the Judge and the attorney for the Trustees, Mr. Hancock's attorney indicated that his client was prepared to bid $675,000.00. Dominick's representative immediately raised their bid to $685,000.00 and Mr. Hancock withdrew his bid. Judge Ryan then declared the hearing to be concluded and directed the Trustees to submit an order providing for the sale of the property to Dominick's at $685,000.00.

Later that same day, Mr. Hancock notified the Bankruptcy Judge by telegram that he was prepared to bid $725,000 for the subject property and asked that the Judge vacate his order approving the sale. On May 24, 1976 Judge Ryan declined to reopen the bidding and signed an order authorizing the sale of the property to Dominick's for $685,000.00.

By order to show cause returnable June 28, 1976, Hancock moved for a temporary restraining order staying the closing on the Illinois property and for an order setting aside the May 24th order authorizing the sale to Dominick's. On the return date of the order to show cause the parties appeared before Judge Ryan and offered testimony regarding the events leading up to the May 17th hearing and Hancock's knowledge that another purchaser would appear. Mr. Finkel of Interstate's real estate department, testified that he called Hancock on May 11th and told him that another party had indicated an interest in the property. At the close of the hearing Judge Ryan stated

> To set aside this sale would work a travesty of justice, in my opinion. Entirely adequate and proper notice was given. Anybody with a modicum of intelligence would have to realize that if a higher bid were made in court at that time, it would be considered. I fully credit Mr. Finkel's testimony that he told Mr. Hancock on May 11th that there would

> be another bidder in the offing. Further, before Mr. Hancock and his attorney entered the courtroom, they were told clearly that there was going to be bidding. During the sale he was given entirely adequate notice and an opportunity to consider if he wished to meet the higher offer. It would work a gross injustice on Dominick's if this sale were to be set aside.

Tr. at 69-70.

That same day the parties appeared before this Court and moved for a stay pending appeal. The stay was granted and the Court ordered an expedited appeal.

THE LAW

The Court finds that the failure of the notice to indicate that counter-offers would be accepted when taken in conjunction with the fact that the notice procedure did not comply with Bankruptcy Rule 10-209 requires that the sale be set aside.

A. The Contents of the Notice

Pursuant to Rule 10-607 of the Rulesof Bankruptcy procedure,

> The court may, on such notice as it may direct and for cause shown, authorize the trustee, receiver, or debtor in possession to lease or sell any real or personal property of the debtor, on such terms and conditions as the court may approve.

As the Advisory Committee's Note explains, a sale in Chapter X is different from a sale in a bankruptcy case and the Rule is designed to afford the court "flexibility in the method and form of the sale...." In light of this Rule the procedure to be followed in the conduct of a sale is to be defined by the court. In the instant case such definition is found in the Notice of Hearing which the court directed be sent. This notice indicates that a hearing will be held to consider the Trustees' application for approval of the Hancock Agreement. The notice nowhere indicates that alternative offers will be considered at the hearing, nor does it imply that such is the case. In this posture, this Court finds that it was unfair to expect Hancock to attend the sale prepared for competitive bidding. That the Trustees/and others had informed Hancock of this fact less than a week before does not require a different result. A large sum of money is involved in this matter, from the perspective of both/the Trustees and the prospective purchasers. It is therefore appropriate to assure that all parties be accurately informed as to the procedures to be followed. See In re Strand Theatre, 109 F.Supp. 350, 353 (S.D.N.Y. 1952), aff'd on opinion below, 201 F.2d 889 (2d Cir.), cert. denied, 345 U.S. 995 (1953).

This conclusion is bolstered by the uncontradicted claim of Hancock's counsel that it is the general practice in this district for the notice to recite than an offer has been made and that other bids will be accepted on or before the return date. The Court's research indicates that such a procedure was followed in R. Hoe & Co., 69 B. 461 (Memorandum of Nov. 3, 1975) (Chapter X) (Conner, J.); W. T. Grant & Co., 75 B. 1735 (Memorandum of May 17, 1976) (Wyatt, J.) (Chapter XI); Continental Vending Machine Corp., 63 B. 663 (E.D.N.Y. Memorandum of July 7, 1964) (Mishler, J.) (Chapter X). In that the instant notice did not include such a recital and in that the Rule provides for whatever notice the judge deems necessary, the Court believes it was unfair to permit open bidding at the return date in light of Hancock's protestations that he was unprepared for such an eventuality. But see In re Gil-Bern Industries, Inc., 526 F.2d 627 (1st Cir. 1975) (implying that when general practice comports with conduct of hearing, general practice gives meaning to ambiguous notice).

B. The Notice Procedure

A second ground which requires a vacatur of the order below is that the notice procedure utilized did not comply with Bankruptcy Rule 10-209(b)(4). Rule 10-209

provides for twenty (20) days' notice by mail to all creditors, stockholders and indenture trustees of "any proposed sale of property, other than in the ordinary course of business, including the time and place of any public sale, unless the court for cause shown shortens the time or orders a sale without notice." It is clear that the notice in the instant case was not sent to all creditors and stockholders, but rather, was sent to the 23 parties who had filed statements with the court pursuant to Rule 10-211.

While this Court does not suggest that notice to all stockholders and creditors (a group of more than 15,000) is mandated or that 20 days' notice must always be given, the language of the Rule makes it clear that unless cause is shown such notice is required. It may very well be that notice to all or in fact any stockholders is inappropriate. As to creditors the situation may be different and notice to some or all seems called for when a sale of this magnitude is contemplated. In any event, it is clearly inconsistent with the words and impo of Rule 10-209(b)(4) to order a sale of property without notice to creditors and stockholders without a finding by the judge that such notice would be inappropriate in the circumstances. The Court therefore remands this

proceeding so that a new notice can be prepared and distributed. In considering the contents of the notice and to whom it should be sent, the Bankruptcy Judge may find guidance in the procedure employed by Judge Conner in In re R. Hoe & Co., Inc., 69 B. 461 (Memorandum of Nov. 3, 1975 S.D.N.Y.). There in a sale of property involving a similar amount of money, the Judge directed that notice be sent to all creditors and stockholders in addition to the SEC and all interested parties. The Judge also ordered that the notice be published in the regional editions of The New York Times and Wall Street Journal as well as the New York Law Journal. The notice stated that an agreement to sell the involved property had been reached and indicated the purchase price. It further stated that counter-offers would be received in writing until the day before the hearing and that the court reserved the power to consider and accept a written offer if presented at the hearing. Finally, the court directed that a letter describing the property and the proposed agreement be sent to the principal industrial and commercial realtors in the area where the property was located.

IT IS THEREFORE ORDERED that the order of May 24,

1976 authorizing the sale of the Illinois property to Dominick's Finer Foods is vacated, and the matter is remanded to the Bankruptcy Judge for further proceedings in conformity with this opinion.

SO ORDERED.

John M. Cannella
JOHN M. CANNELLA
United States District Judge

Dated: New York, N.Y.
July 19, 1976

Memorandum and Order of District Court Dated 8/16/76 Denying Motion for Stay Pending Appeal

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

In re: INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	MEMORANDUM AND ORDER
Debtors.	:	74 B 614-802 Inclusive

----------X

CANNELLA, D.J.:

The Court declines to issue a stay of its July 19, 1976 order pending appeal.

If the Court of Appeals determines that this Court's order should be reversed, it may direct that the sale as confirmed by Judge Ryan on May 24, 1976 be reinstated. The Court therefore does not believe that Dominick's will be prejudiced by the lack of a stay, or that the consummation of the sale will moot the appeal.

SO ORDERED.

JOHN M. CANNELLA
JOHN M. CANNELLA
United States District Judge

Dated: New York, N.Y.
August 16, 1976.

Application of Trustees Dated 4/29/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of	:	In Proceedings for the Reorganization of a Corporation
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	Nos. 74 B 614-802 Inclusive
Debtors.	:	APPLICATION

TO: THE HONORABLE EDWARD J. RYAN
BANKRUPTCY JUDGE, AS SPECIAL MASTER

The application of JOSEPH R. CROWLEY and HERBERT B. SIEGEL respectfully represents:

1. On May 22, 1974 the captioned debtors filed petitions under Chapter XI, Section 322, of the Bankruptcy Act and, thereafter, an amended petition for reorganization pursuant to the provisions of Chapter X of the Bankruptcy Act was filed on June 13, 1974. Said amended petition was thereafter approved by order of this Court dated June 13, 1974. Pursuant to said order, your applicants were appointed, have qualified and are now acting as the Trustees of the captioned debtors.

2. The applicants are engaged in the operation of general department stores and discount toy supermarkets.

3. Prior to the filing of the petitions herein, the debtor Illinois Topps Realty Corp. ("Realty") was the owner of 6.71 acres of land, the improvements thereon and certain personal property used in connection therewith located at 160 West Joe Orr Road, Chicago Heights, Illinois (the "Property").

4. Applicants have entered into an agreement with Mr. John E. Hancock, dated the 20th day of April, 1976 (the "Contract"), agreeing to sell the Property to Mr. Hancock, subject to the approval of this Court; a copy of the Contract is annexed as Exhibit "A". The purchase price for the Property is $650,000.00, payable $45,000 on the execution of the Contract ($10,000 to applicants and $35,000 to an escrow trust established with Chicago Title & Trust Company, Chicago, Illinois), $401,641.57 at closing in cash and $203,358.43 by taking subject to the existing first mortgage, provided that the cash payable at closing shall be increased by the aggregate amount of reductions in the principal amount of that first mortgage.

5. The obligations of applicants to transfer and of Mr. Hancock to buy the Property are conditioned, among other things, upon the agreement of Digas Company of Delaware, a licensee of part of the Property, to waive certain of its possible rights under its license agreement dated July 17, 1973. Except for encumbrances specified in the Contract, the Property is to be sold free and clear of all liens and security interests encumbering the Property, which shall be transferred to the sale proceeds. A lease of the Property dated May 21, 1961 between the predecessor in interest of Realty and the predecessor of the debtor Topps of Chicago Heights, Inc. is not a permitted Encumbrance. Since the continued existence of said lease would prevent the consummation of the Contract, it is onerous and burdensome and Applicants, as Trustees of Realty, seek authority to reject same.

6. Applicants deem the agreement with Mr. Hancock to be in the best interests of the estates because the estates will realize in cash more than $446,000 and will be relieved of the mortgage debt service and real estate taxes on the Property. An appraisal of the Property will be furnished to the Court at the hearing on this application.

7. Applicants respectfully suggest that notice of this application in the form annexed as Exhibit B be given to those set forth on the list set forth as Exhibit C. Said list includes all parties who have appeared herein.

8. No previous application for the relief herein requested has been made.

WHEREFORE, applicants respectfully pray that an order be entered:

(a) Approving the agreement with John E. Hancock dated April 20, 1976;

(b) Authorizing the performance of all of the terms and conditions of that agreement and the taking of such further and additional action consistent therewith as is necessary to consummate that agreement;

(c) Transferring all liens and security interests against any of the Property (except those liens and security interests specified in the agreement as permitted encumbrances) to the proceeds derived by applicants under the agreement;

(d) Authorizing the rejection of the lease dated May 1, 1961 by Applicants as Trustees of Realty;

(e) Granting such other further relief as may be just and proper.

Dated: New York, New York
April 11, 1976

s/
Joseph R. Crowley, Trustee

s/
Herbert B. Siegel
Additional Trustee

SHEA GOULD CLIMENKO KRAMER & CASEY
Attorneys for the Trustees

By s/ [illegible]
A Member of the Firm

EXHIBIT A

AGREEMENT made this day of , 1976 by and between JOSEPH R. CROWLEY and HERBERT B. SIEGEL, as Trustees of Illinois Topps Realty Corp, a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York under File Nos. 74B614-802, inclusive, and not individually ("Seller") and JOHN HANCOCK ("Buyer").

W I T N E S S E T H :

1. Sale, Definitions

1.1 Seller agrees to sell, assign, convey and transfer to Buyer and Buyer agrees to purchase from Seller the real property described in Schedule 1.2(b) for the price and on the terms hereafter stated.

1.2 For purposes of this contract, unless the context shall otherwise indicate, the terms set forth below shall be defined as follows:

(a) The words "District Court" shall mean the United States District Court of the Southern District of New York.

(b) The words "Premises" shall mean the land described in Schedule 1.2b attached hereto, and the Improvements located thereon.

(c) The word "Closing" shall mean the consummation of the transactions referred to in this contract which shall not occur prior to entry of the Final Order, but in no event later than June 1, 1976, at the office of Chicago Title and Trust Company, 111 West Washington Street, Chicago, Illinois.

(d) The word "Buyer" shall include an assignee as provided in 12.

(e) The words "Final Order" shall mean an Order issued by the District Court having jurisdiction over the proceedings for the reorganization of the Seller (nos. 74B614-802, inclusive) after notice by the means and to the parties designated by the District Court and a public hearing before the District Court and with respect to which the time to appeal or further to appeal has expired and which grants to Seller the

legal authority to enter into and to observe, fulfill and perform all of the terms and conditions of this contract and the Option Agreement.

(f) The word "Improvements" shall mean the buildings, structures and other facilities on the Premises, together with all right, title and interest of the Seller in the fixtures installed and used in connection with the operation of the building and structures on the Premises and the personal property described in Schedule 1.2f.

(g) The word "Seller" shall include Messrs. Crowley and Siegel as Trustees of the corporations in proceedings for reorganization of Corporations bearing File Numbers 74B614-802 in the District Court, as well as where the context so requires, those corporations.

(h) The words "Marketable Title" shall mean good and marketable title to the Premises free and clear of all liens, encumbrances, agreements, restructions and burdens, except for Permitted Encumbrances.

(i) The words "Digas License Agreement" shall mean the license agreement dated July 17, 1973 between Topps of Chicago Heights, Inc., as Licensor and Digas Company of Delaware, as Licensee.

(j) The words "Escrow Agreement" shall mean the Escrow Agreement dated April 14, 1976 among Seller, Buyer and Chicago Title and Trust Company as Escrow Agent ("Escrow Agent"). A copy of the Escrow Agreement is attached hereto and marked Exhibit 1.2j.

(k) The word "Mortgage" shall mean the mortgage dated November 1, 1961 from Bonobest Development Corporation to the Massachusetts Mutual Life Insurance Company and recorded as document 18363477 in the Office of the Recorder, Cook County, Illinois and on which there is $203,358.43 outstanding on March 1, 1976, together with accrued interest.

(l) The term "Collateral Security Documents" shall mean assignments of rent, security agreements, financing statements or other documents granting additional security or powers to the holder of the Mortgage.

(m) The term "Permitted Encumbrances" shall mean the matters, exceptions and state of facts affecting title to the Premises, as listed below:

(1) All liens for fiscal 1975 or the current or future fiscal periods for unpaid real estate and personal property taxes, vault charges, assessments, water and sewer charges and rents, subject to adjustment under 8.4 and 8.5.

(2) All violations of law or governmental ordinances, orders or requirements, noted or issued by any govern-

mental office, department or authority having jurisdiction ("governmental authorities"), but which as of the date hereof were not noted or issued by any governmental authority.

(3) All present and future zoning and building laws, ordinances, codes, restrictions and regulations of all governmental authorities and zoning variances and special exceptions, if any, and all present or future violations thereof.

(4) Any state of facts (including but not limited to changes in the line or the alignment of any street) a current survey of the Premises, or a physical inspection thereof, would disclose, including, without limitation, all encroachments and projections of the Improvements upon or over streets or adjacent premises and all encroachments and projections on or over the Premises.

(5) Consents by any present or former owner of any of the Assets or any part thereof for the erection or maintenance of any structure or structures on, under or over any abutting street or streets.

(6) All rights, easements and agreements, whether or not of record, for the erection and/or maintenance of water, gas, electric, telephone, sewer or other utility pipe lines, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the Premises.

(7) Possible lack of or revocable nature of the right, if any, to maintain or use any space, facilities or appurtenances outside the boundaries of a property or the building lines, whether on, over or under the ground, including, without limitation, all vaults, marquees, signs and sidewalk openings.

(8) Possible easements over or failure of title to that part, if any, of any property lying in or under the bed of any street, road or highway, open or proposed, on, in from of or adjoining the premises as such street, road or highway is presently or was formerly laid out, or is shown on any filed map.

(9) The Mortgage.

(10) The Digas License Agreement.

(11) Covenants and restrictions in deed dated April 28, 1961 and recorded May 3, 1961 as document 18152214 that premises in question should not be used for a retail super market grocery business provided this prohibition shall not apply to a department store with food department nor a delicatessen not excess of 10,000 square feet.

(12) Easement for telephone and electric service, together with right of access to the Premises as created

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by Grant to Commonwealth Edison Company and the Illinois Bell Telephone Company recorded August 17, 1961 as document 18250078.

(13) Easement for a sanitary sewer over the North 15 feet of the South 60 feet as shown on the plat dated April 1, 1960 known as C 1337 and plat dated May 11, 1961 known as D 852 of the Mulford Engineering Service of Chicago Heights, and referred to in agreement between Chicago Title and Trust Company as trust No. 35881 to Bonobest Development Corporation dated August 10, 1961 and recorded August 22, 1961 as document 18254389.

(14) Easement for an 8 inch sanitary sewer line dated December 1, 1961 and recorded February 23, 1962 as document 18408598 made by Bonobest Development Corporation to the Kroger Company.

(15) Easement for telephone and electric service, together with right of access to the Premises as created by Grant to Commonwealth Edison Company and Illinois Bell Telephone Company recorded September 13, 1962 as document 18589611.

(16) Party walls on East and West lines of the Premises.

(17) Agreement dated April 15, 1971 between Seller and The Kroger Co, as amended by letter dated May 20, 1971.

2. Purchase Prices

2.1 The purchase price for the Premises is $650,000.00 to be paid as follows:

(a) $45,000.00 in cash on the signing of this contract, payable as follows (i) $10,000 to Seller and (ii) $35,000 to the Escrow Agent, to be held pursuant to the Escrow Agreement.

(b) $401,641.57 at Closing in cash;

(c) $203,358.43 by taking subject to but in no way assuming the Mortgage provided, however, that if any principal payments, including a prepayment in whole or in part of the Mortgage, be made by the Seller, those principal payments, together with all costs incurred in making those payments, including but not limited to all prepayment penalties, shall be added to the amount in (b) to be paid in cash.

2.2 All closing cash payments shall be made by certified or official bank check drawn on or by a New York Clearinghouse member bank and payable to Seller.

3. Covenants

3.1 Buyer agrees, as follows:

(a) To pay all taxes, and charges in the nature of or in lieu of taxes, and filing and recording fees arising out of this contract or the Escrow Agreement, or the sale, assignment or transfer of the Premises, or the delivery, filing or recording of the deed, assignments of lease or other instruments of conveyance or transfer and to indemnify and hold the Seller harmless therefrom.

(b) Buyer agrees for a period of three years following the Closing to make available to the Seller for inspection and copying at reasonable times upon reasonable advance request all records of the Seller delivered to Buyer in connection with the Closing.

3.2 The parties agree, as follows:

(a) All certiorari proceedings pending on the Closing with respect to the Premises for the reduction of the tax assessment for years prior to the current fiscal tax year may, at the Seller's election, be continued by the Seller and the Seller shall have the right to make any settlement thereof without Buyer's approval and shall be entitled to retain all

savings and refunds obtained therefrom. Buyer acknowledges that proceedings before the Board of Appeals of Cook County have resulted in a reduction in the assessed valuation of the Property in accordance with the letter dated March 9, 1976 from Max Earl Sherman, Esq., 100 N. LaSalle Street, Chicago, Illinois ("Sherman"), a copy of which is attached hereto and marked Exhibit 3.2. The net amount of any reduction in the real estate taxes for the current fiscal tax year (and any prior tax year on account of which payments are made in the current year), whether by way of refund, credit or other savings, shall be apportioned between the Seller and Buyer, after the payment of attorneys' fees, experts' fees and other disbursements, in the same manner as provided in 8.4; provided however that Seller's liability for the legal fees and disbursements of Sherman shall not exceed, and Seller agrees to pay to Sherman, 25% of the tax savings received by Seller on account of the proceedings concluded by Sherman and Buyer agrees to pay and hereby indemnifies and holds Seller harmless against the balance of legal fees and disbursements payable to Sherman pursuant to Exhibit 3.2.

(b) Any dispute arising out of or in connection with this contract or the making hereof shall be submitted by the parties for resolution to the District Court. Buyer agrees he will not, and waives all right to, file a lis pendens in connection with any dispute hereunder. Following the Closing,

Buyer shall have no right of rescission for any representation, agreement or promise of the Seller surviving the Closing.

(c) Seller and Buyer shall use their best efforts to perform with reasonable dispatch the acts to be done by each of them to satisfy the conditions precedent to the Closing.

(d) At any time and from time to time after the Closing, each party hereto shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such additional instruments or documents and shall take or cause to be taken such further action as the party may reasonably request to evidence and effectuate the transactions contemplated under this contract.

4. Conditions Precedent

4.1 As conditions precedent to Buyer's obligation to purchase the Premises, and to perform its other obligations under this contract:

(a) The Final Order shall have been obtained.

(b) No event described in 5 or 6 which would permit Buyer to elect to terminate this contract shall have occurred.

(c) All of the documents to be delivered by the Seller pursuant to 7 shall be delivered.

(d) The licensee under the Digas License Agreement shall have waived its right, if any, to terminate the Digas License Agreement or require the licensor under that agreement to purchase any of the licensee's property by reason of the closing of the store operated by Topps of Chicago Heights, Inc. on the Premises or the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, provided that Buyer shall have agreed to the reasonable satisfaction of such licensee to recognize such licensee as his tenant.

4.2 As conditions precedent to Seller's obligation to transfer the Premises:

(a) The Final Order shall have been obtained.

(b) Buyer shall have duly tendered the payments and the instruments described in 2, 3 and 7.

(c) The licensee under the Digas License Agreement shall have waived its right, if any, to terminate the Digas License Agreement or require the licensor under that agreement to purchase any of the licensee's property by reason of the closing of the store operated by Topps of Chicago

Heights, Inc. on the Premises or the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, provided that Buyer shall have agreed to the reasonable satisfaction of such licensee to recognize such licensee as his tenant.

5. Title and Title Insurance

5.1 Buyer, at its sole cost, shall make application promptly after the date hereof to a title insurance company for its commitment to Buyer to issue upon the payment of its regular premium an ALTA Standard Form B, 1970 revision, title insurance policy insuring the Buyer's Marketable Title to Premises in the amount being paid therefor as specified in 2 of this contract, subject only to Permitted Encumbrances. Buyer shall notify the Seller as promptly as possible and in any event at least fifteen (15) days prior to the Closing of any exceptions, defects or objections which Buyer claims are not Permitted Encumbrances. Failure to give such notice shall not, however, constitute a waiver of any such exception, defect or objection.

5.2 If at Closing the Seller is unable to convey to Buyer title to the Premises subject to and in accordance with the provisions of this contract or is unable to fulfill any condition to Buyer's obligations under this contract, the Seller shall be entitled, upon written notice delivered to Buyer at or prior to the Closing, to reasonable adjournments of the Closing date one or more times, for not exceeding 60 days in

the aggregate, to enable the Seller to convey such title or fulfill any such condition under this contract. If the Seller does not so elect to adjourn the Closing, or if at the adjourned date the Seller is unable to convey title subject to and in accordance with the provisions of this contract, then either (i) Buyer may terminate this contract by written notice delivered at or prior to the date fixed for Closing as provided in 1.2(c) hereof, or the adjourned date, as the case may be, whereupon this contract shall terminate and neither party shall have any obligations of any nature to the other hereunder or by reason hereof, except that the provisions of 3.2(b), 10, 14, 18 and 22 hereof shall survive such termination and the Seller shall pay the amount paid under 2.1(a) to Buyer, or (ii) Buyer may elect, as permitted by 5.3 hereof, to take such title as the Seller is able to convey. The failure of Buyer to give the Seller notice of termination as provided in subdivision (i) above shall be deemed an election by Buyer to take such title as the Seller is able to convey, and, in such event, the Closing date shall be automatically adjourned for a period (or additional period, as the case may be) of fiteen (15) days. If the Seller elects to adjourn the Closing as provided above, this contract shall not

be deemed to require Seller to take or bring any action or proceeding or any other steps to remove any defects in or objection to title or to fulfill any such condition of the performance of this contract or to expend any moneys therefor, and, in the event Seller elects not to take any such steps, Buyer shall not have any right of action against Seller in law or in equity, for damages or specific performance.

5.3 Buyer at any time may accept such title as Seller can convey, without reduction of the purchase price or any credit or allowance on account thereof or any claim against Seller. The acceptance of the closing documents by Buyer shall be deemed to be full performance of, and discharge of, every agreement and obligation on the part of Seller to be performed hereunder as a condition precedent to Buyer's obligations.

5.4 Each party shall deliver to the other party or to Buyer's title insurance company such duly executed and acknowledged or verified certificates, affidavits and other documents respecting the power and authority to perform the obligations hereunder and as to the due authorization thereof by appropriate corporate, partnership or other proceeding and as to the authority of the officer, partner or other represen-

tatives acting for it at the Closing, as counsel for the other party or Buyer's title insurance company may reasonably request.

5.5 If the Premises shall, at the time of Closing be subject to any liens such as for judgments or transfer, inheritance, estate, franchise, license or other similar taxes or any encumbrances or other title exceptions which would be grounds for Buyer to reject title hereunder, the same shall not be deemed an objection to title provided that, at the time of Closing, Buyer's title insurer will issue or bind itself to issue a policy which will insure Buyer against collection thereof from or enforcement thereof against the Premises, (i) for a premium computed at regular rates, or (ii) for a premium in excess of the premium computed at regular rates, provided Seller shall pay the amount of such excess attributable to such insurance against collection from or enforcement against the Premises. If request is made within a reasonable time prior to the date of Closing, Buyer agrees to provide at the Closing separate certified or official bank checks, as requested, aggregating the amount of the cash to be paid to the Seller at the date, to facilitate the satisfaction of any of such liens or other defects, and the existence of any thereof shall not be deemed defects in or objections to title if Seller shall deliver at the Closing instruments, in recordable form, sufficient to satisfy the same, together with the cost of recording or filing thereof.

5.6 The expenses of the examination of title and a survey of the Premises shall not be liens on the Premises.

6. Casualty and Condemnation

6.1 The risk of any loss by fire or other casualty or by the taking of the Premises or any part thereof by eminent domain shall be assumed solely by Seller until Closing, provided, however, that in the event of damage to or destruction of not more than 5% of the Improvements or the taking of not more than 5% of the Premises, this contract shall remain in force, and, subject to the rights of the holder of the Mortgage, the Seller shall pay over to Buyer the amount of the insurance proceeds collected or condemnation award allowed to the extent not applied to the restoration or repair of the Premises or, if any proceeds or award has not been collected, Seller shall assign to Buyer all its right, title and interest in and to the same.

6.2 If more than 5% of the Improvements on the Premises shall be damaged by fire or other casualty and shall not be substantially restored or repaired by Closing, or if more

than 5% of the Premises shall be taken by eminent domain, then Buyer may, at its option, (i) terminate this contract with respect to the Premises so damaged or taken or (ii) elect to proceed as provided in 6.1 with respect to damage to not more than 5% of the Improvements or a taking of not more than 5% of those Premises. Upon termination pursuant to the preceding sentence, the obligations of each party to the other shall terminate except that the provisions of 3.2(b), 10, 14, 18 and 22 shall survive and Seller shall pay the amount paid under 2.1(a) to Buyer.

6.3 If any event described in 6 shall occur, the provisions of 6 shall control, and the Uniform Vendor and Purchaser Act or similar laws shall not be applicable.

7. Closing Documents

7.1 Seller shall deliver the following at Closing subject to and in accordance with this contract:

(a) A deed to the Premises, conveying Marketable Title to Buyer. The deed shall be a bargain and sale deed without covenant against grantors acts, or similar form, executed in form for recording and shall recite the full pur-

chase price. The Seller, at its option, may omit from the deed the recital of any or all of the Permitted Encumbrances, but the Premises shall nevertheless be deemed to have been transferred subject to the same and the provisions of this sentence shall survive delivery of the deed.

(b) The Real Estate Transfer Declaration as required by the Illinois Department of Revenue.

(c) An assignment, without representation, warranty or recourse of all right, title and interest of the Seller as licensor under the Digas License Agreement, together with such correspondence and other records, if any, pertaining to that agreement which Seller has available.

(d) A currently dated letter or certificate from the holder of the Mortgage with respect thereto, executed by a duly authorized officer thereof, stating that there have been no amendments or modifications thereof, the amount of the unpaid principal balance secured thereunder which shall not exceed the sum of $203,358.43, the date of maturity thereof, the last date to which interest thereunder shll have been paid, the amount of any deposits being held by such holder thereunder, and the items comprising such deposits

and to the best knowledge of such holder, such mortgage is not in default and no event or condition has occurred which with notice or lapse of time or both would constitute such a default.

The letter or certificate of the holder of the mortgage shall consent to the termination of the lease between Illinois Topps Realty Corp., Lessor and Topps of Chicago Heights, Inc., lessee and to the release of the guarantor of that lease and shall release the lessee and guarantor from all liabilities and claims arising out of the lease and guaranty thereof.

(f) All original documents and writings relating to the continuing ownership and operation of the Premises including certificates of occupancy.

7.2 Buyer shall deliver the following at Closing subject to and in accordance with this contract:

(a) The payments described in 2 and 3 of this contract.

(b) Assumptions of all of the licensor's obligations under the Digas License Agreement from and after the date of Closing, and agreements to indemnify and

hold harmless the Seller from all claims, losses, liabilities and expenses, including attorneys' fees, arising out of Buyer's failure to perform or comply with any such obligations.

8. Adjustments

At Closing, the following adjustments on the basis of a 12-month year - 30 day month shall be made between the parties.

8.1 Rents (including tax escalation) under the Digas License Agreement when, as and if collected, subject to the following:

The payments collected on account of the fixed rent shall be successively applied to the payment of (1) rents due and payable in the month in which the Closing occurs, (2) rents due and payable in the months succeeding the month in which the Closing occurs, up to and including the month in which payment is made, and (3) rents due and payable in the months preceding the month in which the Closing occurs, if any. Percentage lease rents shall be adjusted as of the Closing on the basis of the fiscal period under the percentage rental provision in the Digas License Agreement and shall be payable by Buyer when finally ascertained and received by Buyer. Rents

attributable to all tax and [illegible] payments [illegible] portioned as of the closing of title, subject to the provisions in 8.4 and 8.5, and shall be applied to satisfy in full the payment obligations of the tenant in the order in which those obligations become payable. Buyer shall cause all bills for percentage rental, tax and license fee payments for the periods prior to and including the Closing to be promptly delivered. Seller may enforce collection of rents (including percentage rental and tax escalation payments) for periods prior to the Closing by appropriate judicial proceedings (other than summary proceedings) and Buyer shall cooperate in such collection but without cost to it.

8.2 Interest on the Mortgage.

8.3 Premiums on transferable insurance policies, or renewals, in effect or as extended at Closing.

8.4 Real estate taxes (and any special assessments, water and sewer taxes or other charges payable in the same manner as real estate taxes). If the Closing shall occur before the tax rate is fixed, apportionment of real estate taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. If the Closing shall occur before final bills for fiscal 1975 have been issued to Seller, apportionment of real estate taxes shall be upon the basis of the 1975 or latest prior tax rate applied to the latest assessed valuation as set forth in Exhibit 3.2.

8.5 Personal property taxes.

Except as herein expressly otherwise provided, the "Customs in Respect to Title Closings" adopted by the Real Estate Board of New York, Inc., shall apply to the above apportionments.

9. Representations; Condition of Property

9.1 Buyer acknowledges that:

(a) He is fully familiar and satisfied with the condition and repair of the Premises, the value, income, expenses and operation thereof and the uses which may be made of the Premises or any other matter with respect thereto, including, without limitation, the Digas License Agreement;

(b) He has inspected, or caused to be inspected, the Premises and has independently investigated, analyzed and appraised the value and the profitability thereof;

(c) Except as expressly set forth in this contract, neither Seller nor any agent or representative of Seller has made, and Seller is not liable for or bound in any manner by, any express or implied warranties, guarantees, promises, statement, inducements, representations or information pertaining to the Premises, or any part thereof, the

physical condition, income, expenses or operation thereof, the uses which can be made of the same or any other matter or thing with respect thereto, including, without limitation, any leases, and that without limiting the foregoing, except as expressly set forth in this contract, Seller is not liable for or bound by (and Buyer has not relied upon) any verbal or written statements, representations, real estate brokers' "set-ups" or any other information respecting the Premises furnished by the Seller or any broker, employee, agent, consultant or other person representing or purportedly representing the Seller.

(d) No responsibility has been assumed by Seller as to the condition or repair of the Premises or the value thereof or as to any other fact or condition which has or might affect the Premises or the condition, repair, value, expense of operation or income potentials thereof.

9.2 Buyer, by acceptance of the closing documents, shall accept the Premises in the condition in which they are at the time of the execution of this contract, ordinary wear and tear excepted.

10. Brokerage

The parties hereto represent that no broker has been involved with the negotiations of this contract and the purchase of the Premises pursuant hereto and that no broker is entitled to a commission in connection with this transaction.

11. Buyer's Default

In the event Buyer shall default in the performance of Buyer's obligations under this contract, Seller may retain all sums paid by Buyer under 2.1 as liquidated damages or have recourse to such rights, relief and remedies as may be available at law or in equity.

12. Assignments

No assignment hereof by Buyer shall be valid unless a duplicate original thereof containing an assumption by the assignee or assignees, in form satisfactory to the Seller, shall be delivered to the Seller. No assignment shall relieve Buyer from performance of the obligations undertaken by Buyer under this contract.

13. Notices

All notices, requests, consents and other communications required or permitted to be delivered hereunder shall be in writing and shall be delivered by Registered or Certified Mail, postage and registration or certification charges prepaid as follows:

To Buyer at:

Mr. John Hancock
3100 Bernice Road
Lansing, Illinois 60438

and, to the Seller or any member thereof at:

c/o Samuel W. Ingram, Jr., Esq.
Shea Gould Climenko Kramer & Casey
330 Madison Avenue
New York, New York 10017

Any party hereto may, from time to time, designate any other address to which such notice, request, consent or other communication addressed to it shall be sent. All such communications shall be effective on delivery.

14. Expenses

Whether or not the transactions contemplated under this contract are consummated, each party hereto shall pay his own expenses incident to the preparation and performance of this contract, including, without limitation, attorneys' fees.

15. Survival of Agreements

All covenants, agreements, representations and warranties made herein shall survive the execution and delivery of this contract and the consummation of the transactions contemplated herein.

16. Entire Agreement

This contract (including all schedules annexed hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings, if any, with respect thereto. This contract may not be modified, changed, supplemented or terminatedd, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by his agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

17. Waivers; Extensions

No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

18. No Recording

The parties each agree that neither this contract nor any memorandum or notice thereof shall be recorded.

19. Counterparts; Captions

This contract may be executed in counterparts, each of which shall be deemed an original. The captions are for convenience of reference only and shall not affect the construction to be given any of the provisions hereof.

20. Pronouns; Joint and Several Liability

All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the parties may require. If the Buyer consists of two or more parties, the liability of such parties shall be joint and several.

21. Claims

Whenever any party shall learn through the filing of a claim or the commencement of a proceeding or otherwise of the existence of any liability for which another party is or may be responsible under this contract, such party shall notify the other party promptly and furnish such copies of documents (and make originals thereof available) and such other information as such party may have which may be used or useful in the defense of such claims and shall afford said other party full opportunity to defend the same in the name of any party and shall generally cooperate with the other party in the defense of any such claim.

22. No Personal Liability of Trustees

It is expressly agreed that the obligations of Seller under or with respect to this contract do not constitute personal obligations of the Trustees or any of them and shall not involve any claim against, or liability on the part of, any of them and that Buyer will look solely to the assets of Illinois Topps Realty Corp. in respect of any claim under or with respect to this contract and will not seek recourse against the Trustees or any of them or any of their personal assets.

IN WITNESS WHEREOF, the parties have duly executed this contract as of the day and year first above written.

Joseph R. Crowley

Herbert B. Siegel

as Trustees of Illinois Topps Realty Corp. a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York under File Nos. 74B614-802, inclusive, and not individually.

John Hancock

E

Schedule 1.2(b)

That part of Lot 'B' in North side division being a Subdivision of the South 700 feet of the North 740 feet of that part of the South half of Section 17, Township 35 North, Range 14 East of the Third Principal Meridian lying West of Westerly right of way line of Chicago Road (also known as Chicago Vincennes Road) and lying East of Easterly right of way of Dixie Highway. Beginning at a point 10 feet South of the North line of said Lot 'B' and 400 feet East of the North East corner of Lot 'A' in North Side Division of aforesaid East along a line 10 feet South of and parallel to North line of said Lot 'B' a distance of 596 feet thence South on a line perpendicular to last described line a distance of 490 feet thence West on a line parallel with North line of said Lot 'B' a distance of 596 feet to a point 400 feet East of East line of said Lot 'A' extended South thence North to point of beginning, in Cook County, Illinois.

Personal Property

Any conveyors, accessories and spare parts for same located on the premises at 160 JOE ORR ROAD, CHICAGO HEIGHTS, ILLINOIS, together with all heating, plumbing and electrical appliances, if any, located thereon, without warranty or representation, express or implied.

LAW OFFICES
SOL I. DVORKIN
MAX EARL SHERMAN

SUITE 2310
100 NORTH LA SALLE STREET
CHICAGO, ILLINOIS 60602

FRANKLIN 2-1487

RECEIVED
MAR 11 1976
TAX DEPT.

March 9, 1976

Mr. N. J. Loizzi
Interstate Stores
Tax Department
111 Eighth Avenue
New York City, New York 10011

RE: 1975 Quadrennial Assessment
160 Joe Orr Road, Chicago Heights, Ill.

Dear Nick:

Pursuant to the order of bankruptcy court on December 11, 1975, we proceeded with a complaint before the Cook County Board of Appeals relative to the tax assessment for 1975 on your Store No. 88 in Chicago Heights, Illinois.

The assessment for 1975 was $490,054.00. As a result of a hearing on the complaint, a reduction was obtained in the assessed valuation as indicated below, and I am enclosing herewith an official notice of the Board of Appeals of the reduction.

	Original	Revised	Decrease
Assessment	490,054	272,003	218,051

Applying the present equalization factor of 1.4453 and the tax rate of $9.121 per $100.00 of assessed valuation, results in a tax savings of $28,744.74 for each of the years 1975, 1976, 1977 and 1978.

In January you received a first installment bill which was predicated on the old 1974 assessed valuation. As I indicated by my letter of January 29, 1976, this was an estimate

EXHIBIT 3.2

March 9, 1976

Mr. N. J. Loizzi
Interstate Stores
Tax Department

RE: 1975 Quadrennial Assessment
160 Joe Orr Road, Chicago Heights, Ill.

to enable the County Treasurer to obtain money in advance against the total 1975 bill. The second installment would have been based upon the assessment of $490,054.00 if a complaint had not been filed. As it now stands, you will receive a bill for the second installment based upon the revised assessment of $272,003.00 and you will receive credit for the amount paid on the first installment against the total taxes for 1975, based upon the revised assessment.

I am enclosing herewith a statement setting forth the fees due, pursuant to the order of bankruptcy court confirming our arrangement. I have, however, indicated that this fee should be spread over the four years of the quadrennial. The purpose in doing this is because there is a potential that the Assessor may change the assessment in any one of the quadrennial years. Therefore, we will continue to follow this matter and to make the appropriate complaints and take the appropriate action, and revise the statement of fees whenever and if ever such action becomes necessary.

Yours very truly,

Max Earl Sherman

MES:ck
Enclosure

cc: Joel I. Papernik

LAW OFFICES

MAX EARL SHERMAN & SOL I. DVORKIN

100 NORTH LA SALLE STREET

CHICAGO, ILLINOIS 60602

FRANKLIN 2-1487

March 9, 1976

nterstate Department Stores
llinois Topps Realty Corp.
1 Eighth Avenue
w York City, New York 10011

For Professional Services Rendered

RE: Proceedings before Board of Tax Appeals with reference to the 1975 Quadrennial Assessment for the period 1975, 1976, 1977 and 1978 for the property located at 160 Joe Orr Road in Chicago Heights, Illinois.

Volume 13, Perm. Index No. 32-17-302-025

Fees based upon 25% of tax savings for each of said years (1975, 1976, 1977 & 1978) $28,744.74

Said fees payable as follows:

Due presently	$7,186.19
Due March 1, '77	7,186.19
Due March 1, '78	7,186.18
Due March 1, '79	7,186.18

"A lawyers time and advice are his stock in trade"
- Lincoln -

HARRY H. SEMROW
Commissioner

SEYMOUR ZABAN
Commissioner

B. A. Notice #46-4

S. Z.

ARY H. SEMROW
COMMISSIONER

SEYMOUR ZABAN
COMMISSIONER

BOARD OF APPEALS OF COOK COUNTY
ROOM 601 COUNTY BUILDING
TELEPHONE 443 - 5542
CHICAGO, ILLINOIS 60602

RECEIVED
MAR 11 1976
TAX DEPT.

NOTICE OF REDUCTION IN ASSESSED VALUATION

Complaint No. 17246

Vol. 13 Permanent Index No. 32-17-302-025

Dear Complainant:

Harry H. Semrow and Seymour Zaban, Commissioners of the Board of Appeals of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce your assessed valuation as follows:

Assessor's 1975 Assessed Valuation 490,054 Reduced 1975 Assessed Valuation 272,003

The corrected Assessed Valuation will be equalized by the Illinois Department of Local Government Affairs, as provided by law.

Very truly yours,

HARRY H. SEMROW
Commissioner

SEYMOUR ZABAN
Commissioner

B. A. Notice #46-4

HARRY H. SEMROW
MEMBER

SEYMOUR ZABAN
MEMBER

BOARD OF APPEALS OF COOK COUNTY
ROOM 601, COUNTY BUILDING
TELEPHONE 443-5542
CHICAGO, ILLINOIS 60602

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Complaint No. 17246

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The corrected Assessed Valuation will be equalized by the Illinois Department of Local Government Affairs, as provided by law.

Very truly yours,

HARRY H. SEMROW
MEMBER

SEYMOUR ZABAN
MEMBER

B.A. NOTICE #RE.42-3

CHICAGO TITLE AND TRUST CO.
REFER TO: MRS. L. NORRIS
(312) 630-2719

April 14, 1976

ESCROW TRUST INSTRUCTIONS

#353015

TO: Chicago Title and Trust Company, Excrow Trustee:

JOHN M. KAVENY, 11 South La Salle Street, Chicago, Illinois (312) (726-2157) for John E. Hancock (Buyer) hereby deposits with you the sum of $35,000.00 and a copy of a Real Estate Sales Contract (Contract) between Buyer and Joseph C. Crowley and Herbert C. Siegel as Trustees of Illinois Topps Realty Corporation in reorganization under Chapter X of the Bankruptcy Act, etc., (Seller).

Seller shall deposit with you within five (5) days hereof a copy of the contract and escrow agreement executed by both trustees.

If the executed documents are not deposited within the time specified, then you are to return to John M. Kaveny, upon his written request, the money deposited and bill him for your charges which may be deducted from the deposit.

If the documents are deposited with you, then on or before June 1, 1976, Shea Gould Climenko Kramer & Casey by: Samuel W. Ingram and/or Gilbert Rotkin, 330 Madison Avenue, New York (10017) (212) 616-3200 for Seller will deposit with you the following:

1. A recordable Trustees Deed executed by Seller conveying to Buyer the real estate described in Schedule A attached hereto and made a part hereof.

2. A Bill of Sale executed by the Trustees conveying the personal property described in Schedule B attached hereto and a part hereof.

3. A valuation statement required by the Illinois Department of Revenue executed by the Trustees or their agent.

4. An assignment by Seller of the lease referred to in the Real Estate Contract as the Digas lease.

6. A currently dated letter or certificate from the holder of the mortgage with respect thereto executed by a duly authorized officer thereof stating that there have been no amendments or modifications therof. The amount of the unpaid principal balance secured thereunder which shall not exceed the sum of $203,358.43. The date of maturity thereof. The last date to which interest thereunder shall have been

paid. The amount of any deposits being held by such holder thereunder and the terms comprising such deposits and to the best knowledge of such holder, such mortgages not in default and no event or condition has occurred which with notice or lapse of time, or both, would constitute such a default.

The letter or certificate of the holder of the mortgage shall consent to the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, and to the release of the guarantor of that lease, and shall release the lessee and guarantor from all liabilities and claims arising out of the lease and guarantee thereof.

7. A closing statement signed by the trustees indicating the balance due the trustees from the Buyer for the closing of the sale.

8. A certified copy of the final order issued by the U. S. District Court of the Southern District of New York.

9. All original documents and writings relating to the continuing ownership and operation of the premises, including certificates of occupancy. (All Seller's deposits are to be approved in writing by John M. Kaveny).

(ALL SELLER'S DEPOSITS ARE TO BE APPROVED IN WRITING BY MR. KAVENY)

On or before June 1, 1976, Buyer will deposit with you the following:

1. The balance of the purchase price in uncertified checks as indicated in the closing statement. (As advised jointly in writing by the parties hereto).

2. A copy of the closing statement signed by Buyer.

3. A document executed by Buyer stating that Buyer is assuming all of licensor's obligations under the Digas license agreement, from and after the date of closing, and which agrees to indemnify and hold harmless Seller from all claims, losses, liabilities and expenses, including attorneys' fees arising out of Buyer's failure to perform or comply with any such obligations. (As approved in writing by Samuel W. Ingram and/or Gilbert Rotkin).

When all deposits are received, you are directed to affix state stamps per declaration and then the Deed is to be filed for record at once when the uncertified checks have been paid. When Chicago Title Insurance Company is prepared to issue its regular form of owner's title insurance policy, subject to the usual terms, conditions and general exceptions contained therein, without extended coverage over general exceptions one, two, three, four and five

for $650,000.00 insuring the title of said grantee, John E. Hancock, and subject to the following:

1. All liens for fiscal 1975 or the current or future fiscal periods for unpaid real estate and personal property taxes, vault charges, assessments, water and sewer charges, and rents subject to prorations.

2. All violations of law or governmental ordinances, orders or requirements, noted or issued by any governmental office, department or authority having jurisdiction.

3. All present and future zoning and building laws, ordinances, codes, restrictions and regulations of all governmental authorities and zoning variances and special exceptions, if any, and all present or future violations thereof.

4. Any state of facts (including, but not limited to, changes in the line or the alignment of any street), a current survey of the premises, or a physical inspection thereof would disclose, including without limitation all encroachments and projections of the improvements upon, or over streets or adjacent premises, and all encroachment and projections on or over the premises.

5. Consent by any present or former owner of any of the assets or any part thereof for the erection or maintenance of any structure or structures on, under or over any abuting street or streets.

6. All rights, easements and agreements, whether or not of record, for the erection and, or maintenance of, water, gas, electric, telephone, sewer or other utility pipelines, poles, wires, conduits or other like facilities and appurtenances thereto, over, across and under the premises.

7. Possible lack of, or revocable nature of, the right, if any, to maintain or use any space, facilities or appurtenances outside the boundaries of a property or the building lines, whether on, over or under the ground, including without limitation all vaults, marquees, signs and sidewalk openings.

8. Possible easements over, or failure of title to that part, if any, of any property lying in or under the bed of any street, road or highway, open

or proposed, on, in front of, or adjoining the premises as such street, road or highway is presently, or was formally layed out, or is shown on any filed map.

9. The mortgage of the Massachusetts Mutual Life Insurance Company recorded with the Recorder of of Deeds of Cook County, Illinois as document No. 18363477.

10. The Digas license agreement.

11. Covenants and restrictions in the deed dated April 28, 1961 and recorded May 3, 1961 with the Recorder of Deeds of Cook County, Illinois as document No. 18152214. That the premises in question should not be used for a retail supermarket grocery business provided this prohibition shall not apply to a department store with a food department nor a delicatessen not in excess of 10,000 square feet.

12. Easement for telephone and electric service, together with the right of access to the premises as created by grant to Commonwealth Edison Company and the Illinois Bell Telephone Company, recorded August 17, 1961 with the Recorder of Deeds of Cook County, Illinois as document No. 18250078.

13. Easement for a sanitary sewer over the north 15 feet of the south 60 feet as shown on the plat dated April 1, 1960 known as C-1337 and plat dated May 11, 1961 known as D852 of the Mulford Engineering Service of Chicago Heights and referred to in agreement between Chicago Title and Trust Company as Trust No. 35381 to Bonobest Development Corporation dated August 10, 1961 and recorded August 22, 1961 with the Recorder of Deeds of Cook County, Illinois as document No. 18254389.

14. Easement for an eight (8) inch sanitary sewer line dated December 1, 1961 and recorded February 23, 1962 with the Recorder of Deeds of Cook County, Illinois as document No. 18408598 made by Bonobest Development Corporation to the Kroger Company.

15. Easement for telephone and electric service, together with the right of access to the premises as created by grant to Commonwealth Edison Company and Illinois Bell Telephone Company, recorded September 13, 1962 with the Recorder of Deeds of

BEST COPY AVAILABLE

Cook County, Illinois, as Document 18589611.

16. Party walls on east and west lines of the premises.

17. Agreement dated April 15, 1971, between Seller and the Kroger Company as amended by letter dated May 20, 1971. (All exceptions will be approved in writing by John M. Kaveny).

(ALL EXCEPTIONS TO TITLE ARE TO BE APPROVED IN WRITING BY MR. KAVENY)

You are then hereby authorized and directed to proceed as follows:

To pay Seller the balance of the purchase price as shown on the closing statement and deliver to Seller a copy of the closing statement signed by Buyer and the agreement of Buyer assuming all of the licensors obligations under the Digas License Agreement.

Deliver to Buyer the recorded deed and the remaining documents.

Billing Instructions - direct that John E. Hancock be billed for $650,000.00 policy to include recording of deed, escrow fees, stamp fees and recording charges.

Deliver Chicago Title Insurance Company Owners Policy to John E. Hancock

Default.

In the event you receive written notice from the Buyer or Seller that either party is in default, you shall promptly after receiving such notice, notify the other party by Registered or Certified Mail at the address indicated herein, Return Receipt Requested, of such notice of default. If within ten days of receipt of such notice, you receive a written objection to the notice of default from the party claimed to be in default, you shall continue to hold the escrow deposit until you receive written directions, signed by both of the parties hereto, or the order of a court having jurisdiction of the subject matter. If you receive no objection, you are hereby authorized and directed, if Seller notifies you of Buyer's default, upon written demand of Samuel W. Ingram and/or Gilbert Rotkin, to forward to them the escrow deposit and all documents deposited by them, and if Buyer notifies you of Seller's default, upon written demand of John M. Kaveny, you are to return the escrow deposit to him.

Notices.

All notices to Seller shall be addressed to Samuel W. Ingram and/or Gilbert Rotkin, Shea, Gould, Climenko, Kramer & Casey, 330 Madison Avenue, New York, New York 10017.

All notices to Buyer shall be addressed to John M. Kaveny, 11 South La Salle Street, Chicago, Illinois 60603.

Reconveyance Provisions.

In the event Chicago Title Insurance Company is not prepared to issue its Owners Title Insurance Policy as provided herein, or you are not prepared to execute the disbursement and other instructions contained herein on or before June 1, 1976, you are hereby authorized and directed to continue to comply with the Escrow Trust Instructions until the receipt of a written demand from any party hereto for return of escrow trust deposits made by said party. On receipt of such demand, ~~and after notice as herein provided to the other part hereto, and in the absence of receipt by you of an objection from said party as herein provided~~, you are hereby authorized and directed to return to the party making such a demand, the escrow trust deposits made by said party, and to deliver the remaining trust deposits to the sole order of the respective depositors thereof provided further, before returning any escrow trust deposits on the order or demand of Buyer, or his representative - you as escrow trustee have received in this escrow trust a Quit Claim Deed.

If the Escrow Trust Agreement directs you to continue to comply with instructions following expiration of a time limit for making a deposit, until demand is received from the other party, unless otherwise provided herein, the deposit may be made and accepted at any time prior to the receipt of the demand and default will be cured by said deposit.

~~No claim of a default shall be valid if the party making same is himself in default, unless said default is caused by a failure of the other party to take some action required by the escrow trust~~.

Whenever, under the terms and provisions of the Escrow Trust Agreement, the time for performance of a condition falls upon a Saturday, Sunday or holiday, such time for performance shall be extended to the next business day.

For the above purposes, amendments to the Escrow Trust Agreement shall be considered the same as the agreement.

SHEA GOULD CLIMENKO KRAMER & CASEY

By: _____

ACCEPTED: Chicago Titles and Trust Company, Escrow Trustee

By: _____

DATED: Chicago, Illinois April 14, 1976.

SCHEDULE A.

That part of Lot 'B' in North side division being a Subdivision of the South 700 feet of the North 740 feet of that part of the South half of Section 17, Township 35 North, Range 14 East of the Third Principal Meridian lying West of Westerly right of way line of Chicago Road (also known as Chicago Vincennes Road) and lying East of Easterly right of way of Dixie Highway. Beginning at a point 10 feet South of the North line of said Lot 'B' and 400 feet East of the North East corner of Lot 'A' in North Side Division of aforesaid East along a line 10 feet South of and parallel to North line of said Lot 'B' a distance of 596 feet thence South on a line perpendicular to last described line a distance of 490 feet thence West on a line parallel with North line of said Lot 'B' a distance of 596 feet to a point 400 feet East of East line of said Lot 'A' extended South thence North to point of beginning, in Cook County, Illinois.

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Reorganization Nos. 74 B 614-802 Inclusive
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	
Debtors.	:	NOTICE OF HEARING ON APPLICATION

NOTICE is hereby given that the 17th day of May 1976, at ~~2:15~~ 9:30 A.M. in the afternoon of that day, in Room 236, United States Courthouse, Foley Square, New York, New York, has been fixed as the time and place for a hearing for the consideration of an application for an order (i) approving an agreement between John E. Hancock ("Hancock") and the Trustees as Trustees of Illinois Topps Realty Corp. ("Realty") to sell to Hancock the property and improvements at 160 West Joe Orr Road, Chicago Heights, Illinois for the price of $650,000 (ii) transferring all liens and security interests against any of the property (except permitted encumbrances) to the proceeds of the sale and (iii) authorizing the rejection of the store lease dated May 1, 1961, as amended, by the Trustees as Trustees of Realty.

The application is on file in the office of the Honorable Edward J. Ryan, Bankruptcy Judge, and may be examined by interested parties in Room 230, United States Courthouse, Foley Square, New York, New York, during regular business hours.

NOTICE IS FURTHER GIVEN that the said hearing may be adjourned from time to time without notice other than the announcement of the adjourned date or dates at the hearing.

BY ORDER OF THE COURT

Dated: New York, New York
May 3, 1976

Joseph R. Crowley and Herbert B. Siegel, Trustees
c/o Interstate Stores, Inc.
111 Eighth Avenue
New York, N. Y.
(212) 741 - 6200

SHEA GOULD CLIMENKO KRAMER & CASEY
Attorneys for the Trustees
330 Madison Avenue
New York, N. Y. 10017
(212) 661-3200

EXHIBIT C

Levin & Weintraub, Esq.
225 Broadway
New York, New York 10007

Securities and Exchange Commission
26 Federal Plaza
New York, New York 10007

White & Case, Esq.
14 Wall Street
New York, New York 10005

Zalkin, Rodin & Goodman, Esqs.
750 Third Avenue
New York, New York 10017

Popper & Popper, Esqs.
200 Fifth Avenue
New York, New York 10010

Leinwand, Maron, Hendler & Krause, Esqs.
10 East 40th Street
New York, New York 10016

Milbank, Tweed, Hadley & McCloy, Esqs.
One Chase Manhattan Plaza
New York, New York 10005

Wachtell, Lipton, Rosen & Katz, Esqs.
299 Park Avenue
New York, New York 10017

Robert Schwartz, Esq.
Manufacturers Hanover Trust Company
350 Park Avenue
New York, New York 10022

Debevoise, Plimpton, Lyons & Gates, Esqs.
299 Park Avenue
New York, New York 10017

Emmet, Marvin & Martin, Esqs.
48 Wall Street
New York, New York 10005

Cadwalader, Wickersham & Taft, Esqs.
One Wall Street
New York, New York 10005

Phillip B. Johnson, Esq.
205 Seventh Street
Rockford, Illinois 61104

Matsen, Cory, Matsen & Sprague
1117 Washington Building
Seattle, Washington 98101

Vladeck, Elias, Vladeck & Lewis, Esqs.
1501 Broadway
New York, New York 10036

Henderson, Daily & Foxworthy, Esqs.
2450 One Indiana Square
Indianapolis, Indiana 46204

Bader & Bader, Esqs.
274 Madison Avenue
New York, New York 10016

Zissu Lore Halper & Barron, Esqs.
450 Park Avenue
New York, New York 10022

Fried, Frank, Harris, Shriver & Jacobson, Esqs.
120 Broadway
New York, New York

Meyers, Stevens & Walters, Esqs.
Professional Corporation
Suite 9100 Zenith Center
6300 Wilshire Boulevard
Los Angeles, California 90048

John M. Kaveny, Esq.
11 S. LaSalle Street
Suite 705
Chicago, Illinois 60603

Massachusetts Mutual Life Insurance Company
1295 State Street
Springfield, Massachusetts 01111
Att: Warren R. Wise, Esq.

Seymour Fagan, Esq.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, California 90210

Order to Show Cause Dated 4/30/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

In re :

INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al., : Reorganization Nos. 74 B 614-802

Debtors. : ORDER TO SHOW CAUSE

----------X

At New York, New York in said District on the 30th day of April, 1976

Upon the annexed application and sufficient cause appearing therefor and no adverse interest having been represented, it is

ORDERED, that those on the annexed list show cause before the undersigned, in Room 236 of the United States Courthouse, Foley Square, New York, New York on the 17th day of May, 1976, at 10:00 A.M., or as soon thereafter as counsel can be heard, why the within application should not be granted, and it is further

ORDERED, that service of a notice in the form annexed hereto as Exhibit "B" upon those set forth on the list annexed hereto as Exhibit "C" by mail or by personal service on or before May 4th, 1976 shall be deemed good and sufficient service.

s/ Edward T. Lyon
Bankruptcy Judge

Notice of Hearing on Application Dated 5/3/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

In re	:	Reorganization Nos. 74 B 614-802 Inclusive
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	
Debtors.	:	NOTICE OF HEARING ON APPLICATION

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BY ORDER OF THE COURT

Dated: New York, New York
May 3, 1976

Joseph R. Crowley and Herbert
B. Siegel, Trustees
c/o Interstate Stores, Inc.
111 Eighth Avenue
New York, N. Y.
(212) 741 - 6200

SHEA GOULD CLIMENKO KRAMER & CASEY
Attorneys for the Trustees
330 Madison Avenue
New York, N. Y. 10017
(212) 661-3200

Levin & Weintraub, Esq.
225 Broadway
New York, New York 10007

Securities and Exchange Commission
26 Federal Plaza
New York, New York 10007

White & Case, Esq.
14 Wall Street
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299 Park Avenue
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Robert Schwartz, Esq.
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350 Park Avenue
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48 Wall Street
New York, New York 10005

Cadwalader, Wickersham & Taft, Esqs.
One Wall Street
New York, New York 10005

Phillip B. Johnson, Esq.
205 Seventh Street
Rockford, Illinois 61104

Matsen, Cory, Matsen & Sprague
1117 Washington Building
Seattle, Washington 98101

Vladeck, Elias, Vladeck & Lewis, Esqs.
1501 Broadway
New York, New York 10036

Henderson, Daily & Foxworthy, Esqs.
2450 One Indiana Square
Indianapolis, Indiana 46204

Bader & Bader, Esqs.
274 Madison Avenue
New York, New York 10016

Zissu Lore Halper & Barron, Esqs.
450 Park Avenue
New York, New York 10022

Fried, Frank, Harris, Shriver & Jacobson, Esqs.
120 Broadway
New York, New York

Meyers, Stevens & Walters, Esqs.
Professional Corporation
Suite 9100 Zenith Center
6300 Wilshire Boulevard
Los Angeles, California 90048

John M. Kaveny, Esq.
11 S. LaSalle Street
Suite 705
Chicago, Illinois 60603

Massachusetts Mutual Life Insurance Company
1295 State Street
Springfield, Massachusetts 01111
Att: Warren R. Wise, Esq.

Seymour Fagan, Esq.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, California 90210

Transcript of Proceedings Dated 5/17/76
Before the Bankruptcy Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
(In Bankruptcy)

In the Matter

of

INTERSTATE STORES, INC., et al,

Debtors.

No. 74 B 614-802

United States Court House
Foley Square, New York, N. Y.

May 17, 1976
9:30 a.m.

Before:

HON. EDWARD J. RYAN

Bankruptcy Judge

HEARING TO CONSIDER OFFER

Appearances:

MESSRS. SHEA, GOULD, CLIMENKO,
KRAMER & CASEY
Attorneys for Trustees
BY: PHILLIP MANN, ESQ.,
and
LESTER YASSKY, ESQ.,
of Counsel

APPEARANCES: (Continued)

MERYL WIENER,
Attorney for SEC

MESSRS. GOLENBOCK & BARELL
Attorneys for Offerer
BY: SAMUEL GALOWITZ, ESQ.,
and
ARTHUR SILVERMAN, ESQ.,
of Counsel

MESSRS. ZALKIN, RODIN & GOODMAN
Attorneys for Senior Institutional Lenders
BY: ANDREW GOTTFIED, ESQ.,
of Counsel

* * * * *

THE COURT: Good morning, gentlemen and Ms. Wiener.

Mr. Yassky, we have several matters on this morning.

MR. YASSKY: Yes, if I could please take them up in a certain order your Honor, I think we can dispose of some of the easier ones first.

One of the matters on is for approval of the execution of the warehouse lease for the Toys'R Us Division. This is just a one-year lease.

THE COURT: Is that Milwaukee?

MR. YASSKY: No. This is Houston.

THE COURT: Does any interested party wish to be heard with respect to this application?

(No response.)

THE COURT: I will ask you then, Mr. Yassky to submit an appropriate order.

MR. YASSKY: Thank you, your Honor.

The next matter I would like to address myself to is for approval to enter into a lease for a new Toys'R Us Store in Milwaukee.

THE COURT: Does any interested party wish to be heard with respect to this application?

(No response.)

THE COURT: Very well, the application is granted. Will you please submit an appropriate order.

MR. YASSKY: The third matter, your Honor is the nunc pro tunc order with respect to salaries.

THE COURT: All right, does any interested party wish to be heard with respect to this application to pay certain present

and former employees additional salaries?

(No response.)

THE COURT: There being no adverse recommendation, on the basis of the facts set forth in the papers, the application is granted. Would you submit an appropriate order.

MR. YASSKY: The last matter we have on this morning, your Honor, is an application to approve the sale of certain vacant premises owned by one of the debtors in this proceeding in Chicago Heights, Illinois. Again, the facts supporting this application are set forth therein. We have received an offer. The trustees have entered into a written contract for the sale of this property at a price of $650,000. There is a mortgage on the premises that had a balance of approximately $200,000 and the property would be sold subject to that mortgage and the balance will be paid in cash at the closing.

THE COURT: And the other pertinent data is set forth in the papers?

MR. YASSKY: Yes, your Honor. As I

said, your Honor, there is a binding contract on this between the Trustees and the buyer, subject, of course, to this Court's approval. At the end of last week, the Trustees received indications of interest from another party and they indicated that they intended to come here this morning and make an offer to the Trustees, and we certainly believe that the Trustees are obligated and this Court is obligated to give these parties an opportunity to be heard.

THE COURT: When did the Trustees first hear from this party?

MR. YASSKY: I believe it was -- if I can consult --

THE COURT: Approximately? I could be important.

MR. YASSKY: It was sometime last week.

THE COURT: Last week had five business days. Can you tell me whether it was early or late in the week?

Was it 4:30 Friday afternoon, or was it early Monday morning?

MR. YASSKY: I believe we received a call on Monday of last week.

THE COURT: On Monday and was pertinent data requested of the trustees?

MR. YASSKY: Yes, pertinent data was requested on Wednesday and we furnished to them the information, I believe on Thursday and we have conveyed this information to the buyer.

THE COURT: So far they are fully informed of the nature of the outstanding offer; is that correct?

MR. YASSKY: Yes.

Both parties are, I think, fully informed. In other words, the contract buyer, Mr. Hancock, was also informed that there is another party that indicated interest and we advised Mr. Hancock of the facts.

THE COURT: We know that Mr. Hancock was sufficiently informed to make the offer that we now have before us. Now, does any other person wish to make an offer to purchase from the Trustees the property at 160 West Jocow Road?

MR. SILVERMAN: I am from the firm of Golenbock & Barell. We represent Dominick's Finer Foods, Inc., which is a subsidiary, wholly owned subsidiary of Fisher Foods, Inc., a company which has a chain of 205 supermarket and grocery type stores throughout the United States which in 1975 had sales of $1.5 billion, approximately, and net income of $12.5 million.

We have examined the proposed contract between the Trustees and Mr. Hancock. On behalf of my client, we are prepared to enter into the identical contract. We have resolutions here in court. We have duly authorized officers of the corporation, vice-president and an attorney from the corporation. On the same terms with two differences. First, our client would offer $675,000 instead of $650,000. Secondly, in response to a request from the Trustees, our client would be willing to forego the escrow type closing provisions which are in this contract and would proceed in the normal type of New York type closing, with a title policy and title commitment to be delivered at closing showing clean title;

that is, a substitute to the escrow type closing, though we are prepared to do the escrow type closing.

THE COURT: Well, the second feature, of course, is merely form. It doesn't go to substance, would you not agree?

MR. SILVERMAN: That is correct. The only other aspect which goes to form is that the closing date set forth in the contract is June 1st. We have spoken to the Attorneys for the Trustees and there apparently is no difficulty in having the closing date to be not less than ten days nor more than 30 days after final order, as final order is defined in the contract of sale. So that it's on a certain number of days after final order.

THE COURT: Mr. Yassky, is it a fair statement then insofar as the Trustees are concerned it's simply a question of how much?

MR. YASSKY: I think that's a fair statement.

THE COURT: I assume from the presentation of counsel that the Trustees have looked into the question and have no doubt of the

financial responsibility of our second offerer?

MR. SILVERMAN: Your Honor, I have in the courtroom --

THE COURT: It isn't necessary. I would rather hear from Mr. Yassky.

MR. YASSKY: Based on the limited information we have, your Honor, it seems there isn't enough to distinguish between the parties on their financial worth. However --

THE COURT: Does the representative of Hancock wish to be heard?

MR. KAVENY: My name is John Kaveny, 11 South LaSalle Street, Chicago, Illinois. I am the attorney for Mr. Hancock, who is here with me this morning.

We have no further comment except that we have our offer. The Trustee has it signed. We don't wish to raise our offer at this time, your Honor. We are prepared to proceed as of June 1st closing.

MR. SILVERMAN: I failed to state --

THE COURT: I think I take judicial notice of the fact that $675,000 is $25,000 more than $650,000.

Now, Mr. Yassky, do you know of any reason why the Trustees should not be authorized to accept the higher offer?

MR. YASSKY: No, your Honor. We think the Trustees are duty bound to get the best price for the property and you also could take judicial notice of the difference. We think that Mr. Hancock, being the first party, certainly should have the opportunity to meet that offer.

THE COURT: He certainly has, and if you wish 15 minutes or a half an hour to give it full consideration gentlemen, I will certainly afford you that opportunity.

MR. KAVENY: No, your Honor. We made what we considered to be a good-faith offer. If Mr. Yassky feels it's the same good faith offer, the Dominick People provide the title coverage and no brokerage involved and what have you, then it simply is $25,000 more than what we offered.

THE COURT: You are not prepared to undertake to top the $25,000 offer, sir?

MR. KAVENY: Not at this time.

MR. YASSKY: I would like a representation in court, your Honor, by the Dominick People that there is no broker representing their parties which the Trustees will be liable --

THE COURT: If you want Mr. Yassky, five or ten minutes for the dust to settle here, not that there is too much dust raised, is there any obligation of a deposit at the present time?

MR. YASSKY: They have so advised the Court that they have a check available and intend to sign this contract today, and I would like -- if that's the case, I would like to in effect convert this application for authority to enter into this contract. They say it's identical to the contract that's before the Court and substitute the parties. I don't think it would be necessary to go before this Court again.

THE COURT: Now, before we proceed any further, does any other interested party wish to be heard?

(No response.)

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THE COURT: All right.

MR. YASSKY: I would also like to make clear for the record that the Trustee has entered into this arrangement in good faith with Mr. Hancock and certainly would abide by the terms of the contract. However, it certainly is subject to this Court's approval, and with the higher offer presented to this Court today, I believe that the Trustees have no choice but to accept the higher price on it.

THE COURT: I have absolutely no doubt that the Trustees and Mr. Hancock have acted in the best of faith and there is no need for us to review the body of law that points out that a Trustee's sale is actually a sale by the Court rather than by the Court-appointed fiduciaries, and the Court is under an obligation to accept the highest price at least before the sale is confirmed. After the sale is confirmed, there is a much heavier standard required in order to vacate the sale. But in the present posture of the case, I think the Trustees have an obligation to

accept the higher figure.

Now, unless you feel anything else needs to be added to the record at this time Mr. Yassky, I am prepared to approve your application and to amend this hearing to one, to accept the offer made by the principals who are represented by Golenbock & Barell.

Yes sir, did you wish to be heard?

MR. KAVENY: If I may, I spoke with Mr. Hancock for a moment more and Mr. Hancock indicates that he is willing to go the price at $675,000.

MR. SILVERMAN: Your Honor, we raise to $685,000.

MR. HANCOCK: This is fun and games.

MR. KAVENY: We withdraw it.

THE COURT: No comment need be made on Mr. Hancock's characterization of "fun and games." So this hearing is concluded. I will ask you Mr. Yassky to see that the appropriate papers are prepared which will approve the offer of the principals represented by Golenbock & Barell to pay the sum of $685,000 for this property.

All right, gentlemen, thank you very much.

(The matter was closed.)

Telegram Dated 5/17/76 from John E. Hancock to Judge Ryan

western union Telegram

DCC116(L193)(2-E0997A136)PD 05/17/76 1155
ICS IPMSNGZ CSP
3123253622 TDBN HINSDALE IL 02 05-17 0955P EST
PMS JOSEPH R CROWLEY AND HERBERT D SIEGEL, DLR BY 8:30 AM, DLR
TRUSTEES OF ILLINOIS TOPPS REALTY CORP

CARE SAMUEL W INGRAM JR AND LESTER YASSKY OF SHEA GOULD CLIMENKO
KRAMER AND CASEY THEIR ATTORNIES

330 MADISON AVE
NEW YORK NY 10017
REGARDING INTERSTATE STORES INC 74B614-802 INCLUSIVE. JOHN HANCOCK
WISHES TO INCREASE HIS OFFER TO PURCHASE THE PROPERTY AT 162 WEST
DUNDEE ROAD CHICAGO HEIGHTS FROM THE TRUSTEES OF ILLINOIS TOPPS
REALTY CORP TO $725,000 UPON THE SAME TERMS AND CONDITIONS AS
CONTAINED IN THE PREVIOUS AGREEMENT AND ASKS THAT THE COURT ORDER OF
MAY 17 1976 APPROVING THE OFFER OF SALE BE VACATED AND THE COURT
CONSIDER THE INCREASED OFFER OF JOHN HANCOCK
JOHN HANCOCK CARE JOHN M KAVENY II SOUTH LASALLE ST CHICAGO
IL HIS ATTORNEY
NNNN

SF-1201 (R5-69)

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SF-1201 (R5-69)

Order of Judge Ryan Dated 5/24/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -x

In re	:	Reorganization Nos. 74 B 614-802 Inclusive
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	
Debtors.	:	ORDER

- -x

At New York, New York, in said District on the 24th day of May, 1976

This cause having come on to be heard on May 17, 1976, upon the application of JOSEPH R. CROWLEY and HERBERT B. SIEGEL, Trustees of the debtors herein (the "Trustees"), for an order approving the sale of certain property located at 160 West Joe Orr Road, Chicago Heights, Illinois (the "Property") owned by the debtor Illinois Topps Realty Corp. ("Realty") to John E. Hancock ("Hancock") for a purchase price of $650,000,

NOW, upon the order to show cause dated April 30, 1976 and the application in support thereof, and the hearing held before the undersigned, at which hearing Dominick's Finer Foods, Inc. ("Dominick's") appeared and first offered to purchase the Property for the amount of $675,000, and Hancock appeared and met such offer, and thereafter Dominick's increased its offer to $685,000, and Hancock having submitted no further offer, the Court accepted Dominick's offer, and no other adverse interest having been represented, and after said hearing was concluded upon the ~~[illegible]~~ request of Hancock this Court having declined to reopen the bidding, and sufficient cause appearing therefor, it is

informal

NOW, on motion of Shea Gould Climenko Kramer & Casey, attorneys for the Trustees,

ORDERED, that the Trustees, as Trustees of Realty, are hereby authorized to consummate the sale of the Property to

Dominick's for a price of $685,000, substantially on the terms and conditions of the agreement dated May 17, 1976 between Dominick's and the Trustees, as Trustees of Realty, a copy of which is annexed hereto as Exhibit "A", with such changes therein (except for any decrease in the price) as said Trustees shall approve; and it is further

ORDERED, that all liens and security interests against any of the Property (except permitted encumbrances), be and the same hereby are transferred to the proceeds of the sale with the same force and effect as they had when attached to the Property; and it is further

ORDERED, that the Trustees, as Trustees of Realty, be and they hereby are authorized to reject the lease dated May 21, 1961 between the predecessor in interest of Realty and the predecessor of the debtor Topps of Chicago Heights, Inc.; and it is further

ORDERED, that the Trustees be and they hereby are authorized to take all action and execute all documents necessary to effectuate the terms of the aforementioned agreement and of the within order.

S/ Edward T. Ryan
Bankruptcy Judge

EXHIBIT A

AGREEMENT made this 17th day of May, 1976 by and between JOSEPH R. CROWLEY and HERBERT B. SIEGEL, as Trustees of Illinois Topps Realty Corp, a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York under File Nos. 74B614-802, inclusive, and not individually ("Seller") and Dominick's Finer Foods, Inc., an Illinois corporation ("Buyer").

W I T N E S S E T H :

1. Sale, Definitions

1.1 Seller agrees to sell, assign, convey and transfer to Buyer and Buyer agrees to purchase from Seller the real property described in Schedule 1.2(b) for the price and on the terms hereafter stated.

1.2 For purposes of this contract, unless the context shall otherwise indicate, the terms set forth below shall be defined as follows:

(a) The words "District Court" shall mean the United States District Court of the Southern District of New York.

(b) The words "Premises" shall mean the land described in Schedule 1.2b attached hereto, and the Improvements located thereon.

(c) The word "Closing" shall mean the consummation of the transactions referred to in this contract which shall occur on a day designated by Seller or its counsel, Shea Gould Climenko Kramer & Casey, in a notice to Buyer given concurrently with delivery of a copy of the Final Order which date shall not be earlier than the 10th day (unless an earlier date shall be agreed to in writing by the parties) nor later than the 30th day (unless a later date shall be agreed to in writing by the parties) following the date of ~~entry~~ delivery to Buyer of a copy of such order (or if such 30th day is a Saturday, Sunday or holiday, the following business day) at 10:00 A.M. at the office of Chicago Title and Trust Company, 111 West Washington Street, Chicago, Illinois, but unless extended by the parties, in no event shall the closing occur after August 1, 1976.

(d) The word "Buyer" shall include an assignee as provided in 12.

(e) The words "Final Order" shall mean an Order issued by the District Court having jurisdiction over the proceedings for the reorganization of the Seller (nos. 74B614-802, inclusive) after notice by the means and to the parties designated by the District Court and a public hearing before the District Court and with respect to which the time to appeal or further to appeal has expired and which grants to Seller the

legal authority to enter into and to observe, fulfill and perform all of the terms and conditions of this contract and the Option Agreement.

(f) The word "Improvements" shall mean the buildings, structures and other facilities on the Premises, together with all right, title and interest of the Seller in the fixtures installed and used in connection with the operation of the building and structures on the Premises and the personal property described in Schedule 1.2f.

(g). The word "Seller" shall include Messrs. Crowley and Siegel as Trustees of the corporations in proceedings for reorganization of Corporations bearing File Numbers 74B614-802 in the District Court, as well as where the context so requires, those corporations.

(h) The words "Marketable Title" shall mean good and marketable title to the Premises free and clear of all liens, encumbrances, agreements, restructions and burdens, except for Permitted Encumbrances.

(i) The words "Digas License Agreement" shall mean the license agreement dated July 17, 1973 between Topps of Chicago Heights, Inc., as Licensor and Digas Company of Delaware, as Licensee.

(j) The words "Escrow Agreement" shall mean the Escrow Agreement dated , 1976 among Seller, Buyer and Chicago Title and Trust Company as Escrow Agent ("Escrow Agent"). A copy of the Escrow Agreement is attached hereto and marked Exhibit 1.2j.

(k) The word "Mortgage" shall mean the mortgage dated November 1, 1961 from Bonobest Development Corporation to the Massachusetts Mutual Life Insurance Company and recorded as document 18363477 in the Office of the Recorder, Cook County, Illinois and on which there is $192,695.05 outstanding on March 1, 1976, together with accrued interest.

(l) The term "Collateral Security Documents" shall mean assignments of rent, security agreements, financing statements or other documents granting additional security or powers to the holder of the Mortgage.

(m) The term "Permitted Encumbrances" shall mean the matters, exceptions and state of facts affecting title to the Premises, as listed below:

(1) All liens for fiscal 1975 or the current or future fiscal periods for unpaid real estate and personal property taxes, vault charges, assessments, water and sewer charges and rents, subject to adjustment under 8.4 and 8.5.

(2) All violations of law or governmental ordinances, orders or requirements, noted or issued by any govern-

mental office, department or authority having jurisdiction ("governmental authorities"), but which as of the date hereof were not noted or issued by any governmental authority.

(3) All present and future zoning and building laws, ordinances, codes, restrictions and regulations of all governmental authorities and zoning variances and special exceptions, if any, and all present or future violations thereof.

(4) Any state of facts (including but not limited to changes in the line or the alignment of any street) a current survey of the Premises, or a physical inspection thereof, would disclose, including, without limitation, all encroachments and projections of the Improvements upon or over streets or adjacent premises and all encroachments and projections on or over the Premises.

(5) Consents by any present or former owner of any of the Assets or any part thereof for the erection or maintenance of any structure or structures on, under or over any abutting street or streets.

(6) All rights, easements and agreements, whether or not of record, for the erection and/or maintenance of water, gas, electric, telephone, sewer or other utility pipe lines, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the Premises.

(7) Possible lack of or revocable nature of the right, if any, to maintain or use any space, facilities or appurtenances outside the boundaries of a property or the building lines, whether on, over or under the ground, including, without limitation, all vaults, marquees, signs and sidewalk openings.

(8) Possible easements over or failure of title to that part, if any, of any property lying in or under the bed of any street, road or highway, open or proposed, on, in from of or adjoining the premises as such street, road or highway is presently or was formerly laid out, or is shown on any filed map.

(9) The Mortgage.

(10) The Digas License Agreement.

(11) Covenants and restrictions in deed dated April 28, 1961 and recorded May 3, 1961 as document 18152214 that premises in question should not be used for a retail super market grocery business provided this prohibition shall not apply to a department store with food department nor a delicatessen not excess of 10,000 square feet.

(12) Easement for telephone and electric service, together with right of access to the Premises as created

by Grant to Commonwealth Edison Company and the Illinois Bell Telephone Company recorded August 17, 1961 as document 18250078.

(13) Easement for a sanitary sewer over the North 15 feet of the South 60 feet as shown on the plat dated April 1, 1960 known as C 1337 and plat dated May 11, 1961 known as D 852 of the Mulford Engineering Service of Chicago Heights, and referred to in agreement between Chicago Title and Trust Company as trust No. 35881 to Bonobest Development Corporation dated August 10, 1961 and recorded August 22, 1961 as document 18254389.

(14) Easement for an 8 inch sanitary sewer line dated December 1, 1961 and recorded February 23, 1962 as document 18408598 made by Bonobest Development Corporation to the Kroger Company.

(15) Easement for telephone and electric service, together with right of access to the Premises as created by Grant to Commonwealth Edison Company and Illinois Bell Telephone Company recorded September 13, 1962 as document 18589611.

(16) Party walls on East and West lines of the Premises.

(17) Agreement dated April 15, 1971 between Seller and The Kroger Co, as amended by letter dated May 20, 1971.

2. Purchase Price

2.1 The purchase price for the Premises is $685,000.00 to be paid as follows:

(a) $49,230.00 by check, subject to collection, on the signing of this contract.

(b) $443,074.95 at Closing in cash;

(c) $192,695.05 by taking subject to but in no way assuming the Mortgage provided, however, that if any principal payments, including a prepayment in whole or in part of the Mortgage, be made by the Seller, those principal payments, together with all costs incurred in making those payments, including but not limited to all prepayment penalties, shall be added to the amount in (b) to be paid in cash.

2.2 All closing cash payments shall be made by certified or official bank check drawn on or by a New York Clearinghouse member bank and payable to Seller.

2.3 The closing cash payments (the "Escrow Fund") shall be paid to Shea Gould Climenko Kramer & Casey, Esqs. ("Escrow Agent") to be held in escrow for a period of seven (7) days following the date of Closing (the "Escrow Period"). At the end of the Escrow Period the Escrow Agent shall pay the Escrow Fund to Seller. If, however, Buyer shall notify Seller and the Escrow Agent by notice delivered before the end of the

Escrow Period that Buyer's title insurance company is not prepared to issue its insurance policy pursuant to 5.1 hereof because Seller is unable to convey to Buyer title to the Premises in accordance with and subject to this Agreement, the Escrow Agent shall pay the Escrow Fund to Buyer, subject to 5.2 of this Agreement.

The parties authorize the Escrow Agent, without creating any obligation on the part of the Escrow Agent, in the event this Agreement or the Escrow Funds become involved in litigation, to deposit with the Clerk of the Court in which such litigation is pending the Escrow Funds and, thereupon, the Escrow Agent shall be fully relieved and discharged of any further responsibility hereunder. In addition, the Escrow Agent is hereby authorized, in the event it is threatened with litigation, to interplead all interested parties in any court of competent jurisdiction and to deposit with the Clerk of such Court the Escrow Funds and, thereupon, the Escrow Agent shall be fully relieved and discharged of any further responsibility hereunder.

The Escrow Agent shall not be liable for any mistake of fact or error of judgment or any acts or omissions of any kind unless caused by its wilfull misconduct or gross negligence. The Escrow Agent shall be entitled to rely on any instrument or signature believed by it to be genuine and may assume that any person purporting to give any writing, notice

or instruction in connection with this letter is duly authorized to do so by the party on whose behalf such writing, notice or instruction is given.

3. Covenants

3.1 Buyer agrees, as follows:

(a) To pay all taxes, and charges in the nature of or in lieu of taxes, and filing and recording fees arising out of this contract or the Escrow Agreement, or the sale, assignment or transfer of the Premises, or the delivery, filing or recording of the deed, assignments of lease or other instruments of conveyance or transfer and to indemnify and hold the Seller harmless therefrom.

(b) Buyer agrees for a period of three years following the Closing to make available to the Seller for inspection and copying at reasonable times upon reasonable advance request all records of the Seller delivered to Buyer in connection with the Closing.

3.2 The parties agree, as follows:

(a) All certiorari proceedings pending on the Closing with respect to the Premises for the reduction of the tax assessment for years prior to the current fiscal tax year may, at the Seller's election, be continued by the Seller and the Seller shall have the right to make any settlement thereof without Buyer's approval and shall be entitled to retain al

savings and refunds obtained therefrom. Buyer acknowledges that proceedings before the Board of Appeals of Cook County have resulted in a reduction in the assessed valuation of the Property in accordance with the letter dated March 9, 1976 from Max Earl Sherman, Esq., 100 N. LaSalle Street, Chicago, Illinois ("Sherman"), a copy of which is attached hereto and marked Exhibit 3.2. The net amount of any reduction in the real estate taxes for the current fiscal tax year (and any prior tax year on account of which payments are made in the current year), whether by way of refund, credit or other savings, shall be apportioned between the Seller and Buyer, after the payment of attorneys' fees, experts' fees and other disbursements, in the same manner as provided in 8.4; provided however that Seller's liability for the legal fees and disbursements of Sherman shall not exceed, and Seller agrees to pay to Sherman, 25% of the tax savings received by Seller on account of the proceedings concluded by Sherman and Buyer agrees to pay and hereby indemnifies and holds Seller harmless against the balance of legal fees and disbursements payable to Sherman pursuant to Exhibit 3.2.

(b) Any dispute arising out of or in connection with this contract or the making hereof shall be submitted by the parties for resolution to the District Court. Buyer agrees he will not, and waives all right to, file a lis pendens in connection with any dispute hereunder. Following the Closing,

Buyer shall have no right of rescission for any representation, agreement or promise of the Seller surviving the Closing.

(c) Seller and Buyer shall use their best efforts to perform with reasonable dispatch the acts to be done by each of them to satisfy the conditions precedent to the Closing.

(d) At any time and from time to time after the Closing, each party hereto shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such additional instruments or documents and shall take or cause to be taken such further action as the party may reasonably request to evidence and effectuate the transactions contemplated under this contract.

4. Conditions Precedent

4.1 As conditions precedent to Buyer's obligation to purchase the Premises, and to perform its other obligations under this contract:

(a) The Final Order shall have been obtained.

(b) No event described in 5 or 6 which would permit Buyer to elect to terminate this contract shall have occurred.

(c) All of the documents to be delivered by the Seller pursuant to 7 shall be delivered.

(d) The licensee under the Digas License Agreement shall have waived its right, if any, to terminate the Digas License Agreement or require the licensor under that agreement to purchase any of the licensee's property by reason of the closing of the store operated by Topps of Chicago Heights, Inc. on the Premises or the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, provided that Buyer shall have agreed to the reasonable satisfaction of such licensee to recognize such licensee as his tenant.

4.2 As conditions precedent to Seller's obligation to transfer the Premises:

(a) The Final Order shall have been obtained.

(b) Buyer shall have duly tendered the payments and the instruments described in 2, 3 and 7.

(c) The licensee under the Digas License Agreement shall have waived its right, if any, to terminate the Digas License Agreement or require the licensor under that agreement to purchase any of the licensee's property by reason of the closing of the store operated by Topps of Chicago

Heights, Inc. on the Premises or the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, provided that Buyer shall have agreed to the reasonable satisfaction of such licensee to recognize such licensee as his tenant.

5. Title and Title Insurance

5.1 Buyer, at its sole cost, shall make application promptly after the date hereof to a title insurance company for its commitment to Buyer to issue upon the payment of its regular premium an ALTA Standard Form B, 1970 revision, title insurance policy insuring the Buyer's Marketable Title to Premises in the amount being paid therefor as specified in 2 of this contract, subject only to Permitted Encumbrances. Buyer shall notify the Seller as promptly as possible and in any event not later than five (5) days following the date of delivery to Buyer of the preliminary title report and prior to Closing of any exceptions, defects or objections which Buyer claims are not Permitted Encumbrances. Failure to give such notice shall not, however, constitute a waiver of any such exception, defect or objection.

5.2 If at Closing the Seller is unable to convey to Buyer title to the Premises subject to and in accordance with the provisions of this contract or is unable to fulfill any condition to Buyer's obligations under this contract, the Seller shall be entitled, upon written notice delivered to Buyer at or prior to the Closing, to reasonable adjournments of the Closing date one or more times, for not exceeding 60 days in

the aggregate, to enable the Seller to convey such title or fulfill any such condition under this contract. If the Seller does not so elect to adjourn the Closing, or if at the adjourned date the Seller is unable to convey title subject to and in accordance with the provisions of this contract, then either (i) Buyer may terminate this contract by written notice delivered at or prior to the date fixed for Closing as provided in 1.2(c) hereof, or the adjourned date, as the case may be, whereupon this contract shall terminate and neither party shall have any obligations of any nature to the other hereunder or by reason hereof, except that the provisions of 3.2(b), 10, 14, 18 and 22 hereof shall survive such termination and the Seller shall pay the amount paid under 2.1(a) to Buyer, or (ii) Buyer may elect, as permitted by 5.3 hereof, to take such title as the Seller is able to convey. The failure of Buyer to give the Seller notice of termination as provided in subdivision (i) above shall be deemed an electrion by Buyer to take such title as the Seller is able to convey, and, in such event, the Closing date shall be automatically adjourned for a period (or additional period, as the case may be) of fiteen (15) days. If the Seller elects to adjourn the Closing as provided above, this contract shall not

be deemed to require Seller to take or bring any action or proceeding or any other steps to remove any defects in or objection to title or to fulfill any such condition of the performance of this contract or to expend any moneys therefor, and, in the event Seller elects not to take any such steps, Buyer shall not have any right of action against Seller in law or in equity, for damages or specific performance.

5.3 Buyer at any time may accept such title as Seller can convey, without reduction of the purchase price or any credit or allowance on account thereof or any claim against Seller. The acceptance of the closing documents by Buyer shall be deemed to be full performance of, and discharge of, every agreement and obligation on the part of Seller to be performed hereunder as a condition precedent to Buyer's obligations.

5.4 Each party shall deliver to the other party or to Buyer's title insurance company such duly executed and acknowledged or verified certificates, affidavits and other documents respecting the power and authority to perform the obligations hereunder and as to the due authorization thereof by appropriate corporate, partnership or other proceeding and as to the authority of the officer, partner or other represen-

tatives acting for it at the Closing, as counsel for the other party or Buyer's title insurance company may reasonably request.

5.5 If the Premises shall, at the time of Closing be subject to any liens such as for judgments or transfer, inheritance, estate, franchise, license or other similar taxes or any encumbrances or other title exceptions which would be grounds for Buyer to reject title hereunder, the same shall not be deemed an objection to title provided that, at the time of Closing, Buyer's title insurer will issue or bind itself to issue a policy which will insure Buyer against collection thereof from or enforcement thereof against the Premises, (i) for a premium computed at regular rates, or (ii) for a premium in excess of the premium computed at regular rates, provided Seller shall pay the amount of such excess attributable to such insurance against collection from or enforcement against the Premises. If request is made within a reasonable time prior to the date of Closing, Buyer agrees to provide at the Closing separate certified or official bank checks, as requested, aggregating the amount of the cash to be paid to the Seller at the date, to facilitate the satisfaction of any of such liens or other defects, and the existence of any thereof shall not be deemed defects in or objections to title if Seller shall deliver at the Closing instruments, in recordable form, sufficient to satisfy the same, together with the cost of recording or filing thereof.

5.6 The expenses of the examination of title and a survey of the Premises shall not be liens on the Premises.

6. Casualty and Condemnation

6.1 The risk of any loss by fire or other casualty or by the taking of the Premises or any part thereof by eminent domain shall be assumed solely by Seller until Closing, provided, however, that in the event of damage to or destruction of not more than 5% of the Improvements or the taking of not more than 5% of the Premises, this contract shall remain in force, and, subject to the rights of the holder of the Mortgage, the Seller shall pay over to Buyer the amount of the insurance proceeds collected or condemnation award allowed to the extent not applied to the restoration or repair of the Premises or, if any proceeds or award has not been collected, Seller shall assign to Buyer all its right, title and interest in and to the same.

6.2 If more than 5% of the Improvements on the Premises shall be damaged by fire or other casualty and shall not be substantially restored or repaired by Closing, or if more

than 5% of the Premises shall be taken by eminent domain, then Buyer may, at its option, (i) terminate this contract with respect to the Premises so damaged or taken or (ii) elect to proceed as provided in 6.1 with respect to damage to not more than 5% of the Improvements or a taking of not more than 5% of those Premises. Upon termination pursuant to the preceding sentence, the obligations of each party to the other shall terminate except that the provisions of 3.2(b), 10, 14, 18 and 22 shall survive and Seller shall pay the amount paid under 2.1(a) to Buyer.

6.3 If any event described in 6 shall occur, the provisions of 6 shall control, and the Uniform Vendor and Purchaser Act or similar laws shall not be applicable.

7. Closing Documents

7.1 Seller shall deliver the following at Closing subject to and in accordance with this contract:

(a) A deed to the Premises, conveying Marketable Title to Buyer. The deed shall be a bargain and sale deed without covenant against grantors acts, or similar form, executed in form for recording and shall recite the full pur-

chase price. The Seller, at its option, may omit from the deed the recital of any or all of the Permitted Encumbrances, but the Premises shall nevertheless be deemed to have been transferred subject to the same and the provisions of this sentence shall survive delivery of the deed.

(b) The Real Estate Transfer Declaration as required by the Illinois Department of Revenue.

(c) An assignment, without representation, warranty or recourse of all right, title and interest of the Seller as licensor under the Digas License Agreement, together with such correspondence and other records, if any, pertaining to that agreement which Seller has available.

(d) A currently dated letter or certificate from the holder of the Mortgage with respect thereto, executed by a duly authorized officer thereof, stating that there have been no amendments or modifications thereof, the amount of the unpaid principal balance secured thereunder which shall not exceed the sum of $192,695.05 the date of maturity thereof, the last date to which interest thereunder shll have been paid, the amount of any deposits being held by such holder thereunder, and the items comprising such deposits

and to the best knowledge of such holder, such mortgage is not in default and no event or condition has occurred which with notice or lapse of time or both would constitute such a default.

The letter or certificate of the holder of the mortgage shall consent to the termination of the lease between Illinois Topps Realty Corp., Lessor and Topps of Chicago Heights, Inc., lessee and to the release of the guarantor of that lease and shall release the lessee and guarantor from all liabilities and claims arising out of the lease and guaranty thereof.

(f) All original documents and writings relating to the continuing ownership and operation of the Premises including certificates of occupancy.

7.2 Buyer shall deliver the following at Closing subject to and in accordance with this contract:

(a) The payments described in 2 and 3 of this contract.

(b) Assumptions of all of the licensor's obligations under the Digas License Agreement from and after the date of Closing, and agreements to indemnify and

hold harmless the Seller from all claims, losses, liabilities and expenses, including attorneys' fees, arising out of Buyer's failure to perform or comply with any such obligations.

8. Adjustments

At Closing, the following adjustments on the basis of a 12-month year - 30 day month shall be made between the parties.

8.1 Rents (including tax escalation) under the Digas License Agreement when, as and if collected, subject to the following:

The payments collected on account of the fixed rent shall be successively applied to the payment of (1) rents due and payable in the month in which the Closing occurs, (2) rents due and payable in the months succeeding the month in which the Closing occurs, up to and including the month in which payment is made, and (3) rents due and payable in the month preceding the month in which the Closing occurs, if any. Percentage lease rents shall be adjusted as of the Closing on the basis of the fiscal period under the percentage rental provision in the Digas License Agreement and shall be payable by Buyer when finally ascertained and received by Buyer. Rents

attributable to all tax and license fee payments shall be apportioned as of the closing of title, subject to the provisions in 8.4 and 8.5, and shall be applied to satisfy in full the payment obligations of the tenant in the order in which those obligations become payable. Buyer shall cause all bills for percentage rental, tax and license fee payments for the periods prior to and including the Closing to be promptly delivered. Seller may enforce collection of rents (including percentage rental and tax escalation payments) for periods prior to the Closing by appropriate judicial proceedings (other than summary proceedings) and Buyer shall cooperate in such collection but without cost to it.

8.2 Interest on the Mortgage.

8.3 Premiums on transferable insurance policies, or renewals, in effect or as extended at Closing.

8.4 Real estate taxes (and any special assessments, water and sewer taxes or other charges payable in the same manner as real estate taxes). If the Closing shall occur before the tax rate is fixed, apportionment of real estate taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. If the Closing shall occur before final bills for fiscal 1975 have been issued to Seller, apportionment of real estate taxes shall be upon the basis of the 1975 or latest prior tax rate applied to the latest assessed valuation as set forth in Exhibit 3.2.

8.5 Personal property taxes.

Except as herein expressly otherwise provided, the "Customs in Respect to Title Closings" adopted by the Real Estate Board of New York, Inc., shall apply to the above apportionments.

9. Representations; Condition of Property

9.1 Buyer acknowledges that:

(a) He is fully familiar and satisfied with the condition and repair of the Premises, the value, income, expenses and operation thereof and the uses which may be made of the Premises or any other matter with respect thereto, including, without limitation, the Digas License Agreement;

(b) He has inspected, or caused to be inspected, the Premises and has independently investigated, analyzed and appraised the value and the profitability thereof;

(c) Except as expressly set forth in this contract, neither Seller nor any agent or representative of Seller has made, and Seller is not liable for or bound in any manner by, any express or implied warranties, guarantees, promises, statement, inducements, representations or information pertaining to the Premises, or any part thereof, the

physical condition, income, expenses or operation thereof, the uses which can be made of the same or any other matter or thing with respect thereto, including, without limitation, any leases, and that without limiting the foregoing, except as expressly set forth in this contract, Seller is not liable for or bound by (and Buyer has not relied upon) any verbal or written statements, representations, real estate brokers' "set-ups" or any other information respecting the Premises furnished by the Seller or any broker, employee, agent, consultant or other person representing or purportedly representing the Seller.

(d) No responsibility has been assumed by Seller as to the condition or repair of the Premises or the value thereof or as to any other fact or condition which has or might affect the Premises or the condition, repair, value, expense of operation or income potentials thereof.

9.2 Buyer, by acceptance of the closing documents, shall accept the Premises in the condition in which they are at the time of the execution of this contract, ordinary wear and tear excepted.

10. Brokerage

The parties hereto represent that no broker has been involved with the negotiations of this contract and the purchase of the Premises pursuant hereto and that no broker is entitled to a commission in connection with this transaction.

11. Buyer's Default

In the event Buyer shall default in the performance of Buyer's obligations under this contract, Seller may retain all sums paid by Buyer under 2.1 as liquidated damages or have recourse to such rights, relief and remedies as may be available at law or in equity.

12. Assignments

No assignment hereof by Buyer shall be valid unless a duplicate original thereof containing an assumption by the assignee or assignees, in form satisfactory to the Seller, shall be delivered to the Seller. No assignment shall relieve Buyer from performance of the obligations undertaken by Buyer under this contract.

13. Notices

All notices, requests, consents and other communications required or permitted to be delivered hereunder shall be in writing and shall be delivered by Registered or Certified Mail, postage and registration or certification charges prepaid as follows:

To Buyer at:	Dominick's Finer Foods, Inc. 555 Northwest Avenue Northlake, Illinois 60164 Attn.: E. R. Hershey, Esq.
and, to the Seller or any member thereof at:	c/o Samuel W. Ingram, Jr., Esq. Shea Gould Climenko Kramer & Casey 330 Madison Avenue New York, New York 10017

Any party hereto may, from time to time, designate any other address to which such notice, request, consent or other communication addressed to it shall be sent. All such communications shall be effective on delivery.

14. Expenses

Whether or not the transactions contemplated under this contract are consummated, each party hereto shall pay his own expenses incident to the preparation and performance of this contract, including, without limitation, attorneys' fees.

15. Survival of Agreements

All covenants, agreements, representations and warranties made herein shall survive the execution and delivery of this contract and the consummation of the transactions contemplated herein.

16. Entire Agreement

This contract (including all schedules annexed hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings, if any, with respect thereto. This contract may not be modified, changed, supplemented or terminatedd, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by his agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

17. Waivers; Extensions

No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

18. No Recording

The parties each agree that neither this contract nor any memorandum or notice thereof shall be recorded.

19. Counterparts; Captions

This contract may be executed in counterparts, each of which shall be deemed an original. The captions are for convenience of reference only and shall not affect the construction to be given any of the provisions hereof.

20. Pronouns; Joint and Several Liability

All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the parties may require. If the Buyer consists of two or more parties, the liability of such parties shall be joint and several.

21. Claims

Whenever any party shall learn through the filing of a claim or the commencement of a proceeding or otherwise of the existence of any liability for which another party is or may be responsible under this contract, such party shall notify the other party promptly and furnish such copies of documents (and make originals thereof available) and such other information as such party may have which may be used or useful in the defense of such claims and shall afford said other party full opportunity to defend the same in the name of any party and shall generally cooperate with the other party in the defense of any such claim.

22. No Personal Liability of Trustees

It is expressly agreed that the obligations of Seller under or with respect to this contract do not constitute personal obligations of the Trustees or any of them and shall not involve any claim against, or liability on the part of, any of them and that Buyer will look solely to the assets of Illinois Topps Realty Corp. in respect of any claim under or with respect to this contract and will not seek recourse against the Trustees or any of them or any of their personal assets.

IN WITNESS WHEREOF, the parties have duly executed this contract as of the day and year first above written.

Joseph R. Crowley

Joseph R. Crowley

Herbert B. Siegel

Herbert B. Siegel

as Trustees of Illinois Topps Realty Corp. a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York under File Nos. 74B614-802, inclusive, and not individually.

DOMINICK's FINER FOODS, INC.

By: W B Johnson

VICE PRESIDENT

Schedule 1.2(b)

That part of Lot 'B' in North side division being a Subdivision of the South 700 feet of the North 740 feet of that part of the South half of Section 17, Township 35 North, Range 14 East of the Third Principal Meridian lying West of Westerly right of way line of Chicago Road (also known as Chicago Vincennes Road) and lying East of Easterly right of way of Dixie Highway. Beginning at a point 10 feet South of the North line of said Lot 'B' and 400 feet East of the North East corner of Lot 'A' in North Side Division of aforesaid East along a line 10 feet South of and parallel to North line of said Lot 'B' a distance of 596 feet thence South on a line perpendicular to last described line a distance of 490 feet thence West on a line parallel with North line of said Lot 'B' a distance of 596 feet to a point 400 feet East of East line of said Lot 'A' extended South thence North to point of beginning, in Cook County, Illinois.

BEST COPY AVAILABLE

Personal Property

Any conveyors, accessories and spare parts for same located on the premises at 160 JOE ORR ROAD, CHICAGO HEIGHTS, ILLINOIS, together with all heating, plumbing and electrical appliances, if any, located thereon, without warranty or representation, express or implied.

LAW OFFICES
SOL I. DVORKIN
MAX EARL SHERMAN

SUITE 2310
100 NORTH LA SALLE STREET
CHICAGO, ILLINOIS 60602
FRANKLIN 2-1407

RECEIVED
MAR 11 1976
TAX DEPT.

March 9, 1976

Mr. N. J. Loizzi
Interstate Stores
Tax Department
111 Eighth Avenue
New York City, New York 10011

RE: 1975 Quadrennial Assessment
160 Joe Orr Road, Chicago Heights, Ill.

Dear Nick:

Pursuant to the order of bankruptcy court on December 11, 1975, we proceeded with a complaint before the Cook County Board of Appeals relative to the tax assessment for 1975 on your Store No. 88 in Chicago Heights, Illinois.

The assessment for 1975 was $490,054.00. As a result of a hearing on the complaint, a reduction was obtained in the assessed valuation as indicated below, and I am enclosing herewith an official notice of the Board of Appeals of the reduction.

	Original	Revised	Decrease
Assessment	490,054	272,003	218,051

Applying the present equalization factor of 1.4453 and the tax rate of $9.121 per $100.00 of assessed valuation, results in a tax savings of $28,744.74 for each of the years 1975, 1976, 1977 and 1978.

In January you received a first installment bill which was predicated on the old 1974 assessed valuation. As I indicated by my letter of January 29, 1976, this was an estimate

EXHIBIT 3.2

March 9, 1976

Mr. N. J. Loizzi
Interstate Stores
Tax Department

RE: 1975 Quadrennial Assessment
160 Joe Orr Road, Chicago Heights, Ill.

to enable the County Treasurer to obtain money in advance against the total 1975 bill. The second installment would have been based upon the assessment of $490,054.00 if a complaint had not been filed. As it now stands, you will receive a bill for the second installment based upon the revised assessment of $272,003.00 and you will receive credit for the amount paid on the first installment against the total taxes for 1975, based upon the revised assessment.

I am enclosing herewith a statement setting forth the fees due, pursuant to the order of bankruptcy court confirming our arrangement. I have, however, indicated that this fee should be spread over the four years of the quadrennial. The purpose in doing this is because there is a potential that the Assessor may change the assessment in any one of the quadrennial years. Therefore, we will continue to follow this matter and to make the appropriate complaints and take the appropriate action, and revise the statement of fees whenever and if ever such action becomes necessary.

Very truly,

Max Earl Sherman

MES:ck
Enclosure

cc: Joel I. Papernik

LAW OFFICES

MAX EARL SHERMAN & SOL I. DVORKIN

100 NORTH LA SALLE STREET

CHICAGO, ILLINOIS 60602

FRANKLIN 2-1418

March 9, 1976

nterstate Department Stores
llinois Topps Realty Corp.
11 Eighth Avenue
ew York City, New York 10011

For Professional Services Rendered

RE: Proceedings before Board of Tax Appeals with reference to the 1975 Quadrennial Assessment for the period 1975, 1976, 1977 and 1978 for the property located at 160 Joe Orr Road in Chicago Heights, Illinois.

Volume 13, Perm. Index No. 32-17-302-025

Fees based upon 25% of tax savings for each of said years (1975, 1976, 1977 & 1978) $28,744.74

Said fees payable as follows:

Due presently	$7,186.19
Due March 1, '77	7,186.19
Due March 1, '78	7,186.18
Due March 1, '79	7,186.18

"A lawyers time and advice are his stock in trade"
- Lincoln -

HARRY H. SEMROW
Commissioner

SEYMOUR ZABAN
Commissioner

B. A. Notice #46-4

S.

HARRY H. SEMROW
COMMISSIONER

S.Z.

SEYMOUR ZABAN
COMMISSIONER

BOARD OF APPEALS OF COOK COUNTY
ROOM 601 COUNTY BUILDING
TELEPHONE 443-5542
CHICAGO, ILLINOIS 60602

RECEIVED
MAR 11 1976
TAX DEPT.

NOTICE OF REDUCTION IN ASSESSED VALUATION

Complaint No. 17246

Vol. 13 Permanent Index No. 32-17-302-025

Dear Complainant:

Harry H. Semrow and Seymour Zaban, Commissioners of the Board of Appeals of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce your assessed valuation as follows:

Assessor's 1975 Assessed Valuation 490054 Reduced 1975 Assessed Valuation 272003

The corrected Assessed Valuation will be equalized by the Illinois Department of Local Government Affairs, as provided by law.

Very truly yours,

HARRY H. SEMROW
Commissioner

SEYMOUR ZABAN
Commissioner

HARRY H. SEMROW
MEMBER

SEYMOUR ZABAN
MEMBER

BOARD OF APPEALS OF COOK COUNTY

ROOM 601, COUNTY BUILDING
TELEPHONE 443-5542
CHICAGO, ILLINOIS 60602

NOTICE OF REDUCTION IN ASSESSED VALUATION

Complaint No. 17246

Vol. 13 Permanent Index No. 32-17-302-025

Dear Complainant:

Harry H. Semrow and Seymour Zaban, Members of the Board of Appeals of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce your assessed valuation as follows:

Assessor's 1973 Assessed Valuation 290,054

Reduced 1973 Assessed Valuation 272,003

The corrected Assessed Valuation will be equalized by the Illinois Department of Local Government Affairs, as provided by law.

Very truly yours,

HARRY H. SEMROW
MEMBER

SEYMOUR ZABAN
MEMBER

B.A. NOTICE ARE.42-3

NOTICE OF SETTLEMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

In Re :

INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al., :

Debtors. :

Reorganization Nos. 74 B 614-802, Inclusive

NOTICE OF SETTLEMENT

- x

S I R S:

PLEASE TAKE NOTICE that an order of which the within is a true copy will be presented for settlement to the Honorable Edward J. Ryan, Bankruptcy Judge, at the United States Courthouse, Foley Square, New York, New York, on the 24th day of May, 1976 at 10:00 a.m.

Dated: New York, New York
May 18, 1976

SHEA GOULD CLIMENKO KRAMER & CASEY

By _____
A Member of the Firm

Attorneys for Trustees
330 Madison Avenue
New York, New York 10017

(212) 661-3200

TO: HONORABLE JOHN M. CANNELLA
United States District Judge
United States Courthouse
Foley Square
New York, New York 10007

SECURITIES AND EXCHANGE COMMISSION
26 Federal Plaza
New York, New York 10007

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY
1295 State Street
Springfield, Mass. 01111
Att: Warren R. Wise, Esq.

JOHN M. KAVENY, ESQ.
11 S. LaSalle Street, Suite 705
Chicago, Illinois 60603

SEYMOUR FAGAN, ESQ.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, California 90210

TO: DOMINICK'S FINER FOODS, INC.
555 Northwest Avenue
Northlake, Illinois 60164
Att: E. R. Hersey, Esq.

GOLENBOCK & BARELL, ESQS.
645 Fifth Avenue
New York, New York 10022

John E. Hancock's Notice of Appeal to District Court from Order of Judge Ryan Entered 5/24/76, Dated 6/3/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Reorganization Nos. 74 B 614-802
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	Inclusive
Debtors.	:	NOTICE OF APPEAL

JOHN E. HANCOCK

appeals to the District Court from the order of the Bankruptcy Judge entered in this case on May 24, 1976 ordering that the Trustees are authorized to consummate the sale of property in Chicago Heights, Illinois to Dominick's Finer Foods, Inc. for a price of $685,000.00, substantially on the terms and conditions of the Agreement dated May 17, 1976.

The parties to the order appealed from and the names and addresses of their respective attorneys are as follows:

John M. Kaveny, Esq.
11 S. LaSalle Street
Suite 705
Chicago, Illinois 60603

Massachusetts Mutual Life Insurance Company
1295 State Street
Springfield, Massachusetts 01111
Att: Warren R. Wise, Esq.

Seymour Fagan, Esq.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, California 90210

Dominick's Finer Foods, Inc.
555 Northwest Avenue
North Lake, Illinois 60164

Joseph R. Crowley and Herbert B. Siegel, Trustees
c/o Interstate Stores, Inc.
111 Eighth Avenue
New York, New York

Shea Gould Climenko Kramer & Casey, Esqs.
Attorneys for the Trustees
330 Madison Avenue
New York, New York 10017

Golenbock & Barell
645 Fifth Avenue - 60 East 42 Street
New York, New York

Dated: New York, New York
June 3, 1976

KRAUSE, HIRSCH & GROSS
Attorneys for Appellant

By: _____
A Member of the Firm

41 East 42nd Street
New York, New York 10017
Tel: (212) 986-1122

AMF Incorporated's Notice of Appeal to District Court from Judge Ryan's 5/25/76 Order Dated 6/3/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al,	: Reorganization Nos. 74B 614-802
Debtors	: NOTICE OF APPEAL TO DISTRICT COURT

AMF Incorporated, a creditor herein, appeals to the District Court from the Order of Bankruptcy Judge Edward Ryan entered in this case on May 25, 1976 authorizing the sale of certain property located at 160 West Joe Orr Road, Chicago Heights, Ill. to Dominick's Finer Foods, Inc.

The parties to the order appealed from as listed on the Notice of Entry thereof dated May 28, 1976 are as follows:

SHEA GOULD CLIMENKO KRAMER & CASEY
330 Madison Avenue
New York, N.Y. 10017

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY
1295 State Street
Springfield, Mass. 01111

JOHN M. KAVENY, ESQ.
11 South LaSalle Street, Suite 705
Chicago, Illinois 60603

SEYMOUR FAGAN, ESQ.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, Calif. 90210

DOMINICK'S FINER FOODS, INC.
555 Northwest Avenue
Northlake, Illinois 60164

GOLDLOCK & BARELL, ESQS.
645 Fifth Avenue
New York, N.Y. 10022

Dated: New York, New York
June 3, 1976

ROGERS HOGE & HILLS

by _____
A member of the firm
Attorneys for AMF Incorporated
90 Park Avenue
New York, New York 10016
(212) 953-9200

John E. Hancock's Notice of Appeal to District Court
Dated 6/18/76

FILED
JN 21 1976
EDWARD J. RYAN
BANKRUPTCY JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re

INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al,

Debtors.

Reorganization
Nos. 74 B 614-802

NOTICE OF APPEAL TO DISTRICT COURT

JOHN E. HANCOCK appeals to the District Court from that part of the order to show cause of Honorable Edward J. Ryan, Bankruptcy Judge, entered in this case on June 10, 1976, denying appellant's application for an order temporarily restraining the Trustees, Joseph R. Crowley and Herbert B. Siegal, and Dominick's Finer Foods, Inc., and their agents, servants, employees and officers, and all persons in active concert and participation with the said parties from selling, transferring or otherwise disposing of premises located at 160 West Joe Orr Road, Chicago Heights, Illinois, pending the hearing and determination of appellant's motion to vacate and set aside an order of Honorable Edward J. Ryan, Bankruptcy Judge, dated May 24, 1976, confirming the sale to Dominick's Finer Foods, Inc. of the said premises.

The parties to the order appealed from and the names and addresses of their respective attorneys are as follows:

Dominick's Finer Foods, Inc.
555 Northwest Avenue
North Lake, Illinois 60164

Joseph R. Crowley and Herbert B. Siegel, Trustees
c/o Interstate Stores, Inc.
111 Eighth Avenue
New York, New York

Shea Gould Climenko Kramer & Casey, Esqs.
Attorneys for the Trustees
330 Madison Avenue
New York, New York

Golenbock & Barell
645 Fifth Avenue - 60 East 42 Street
New York, New York

Levin & Weintraub, Esq.
225 Broadway
New York, New York 10007

Securities and Exchange Commission
26 Federal Plaza
New York, New York 10007

White & Case, Esq.
14 Wall Street
New York, New York 10005

Zalkin, Rodin & Goodman, Esqs.
750 Third Avenue
New York, New York 10017

Popper & Popper, Esqs.
200 Fifth Avenue
New York, New York 10010

Leinwand, Maron, Hendler & Krause, Esqs.
10 East 40th Street
New York, New York 10016

Milbank, Tweed, Hadley & McCloy, Esqs.
One Chase Manhattan Plaza
New York, New York 10005

Wachtell, Lipton, Rosen & Katz, Esqs.
299 Park Avenue
New York, New York 10017

Robert Schwartz, Esq.
Manufacturers Hanover Trust Company
350 Park Avenue
New York, New York 10022

Debevoise, Plimpton, Lyons & Gates, Esqs.
299 Park Avenue
New York, New York 10017

Emmet, Marvin & Martin, Esqs.
48 Wall Street
New York, New York 10005

Cadwalader, Wickersham & Taft, Esqs.
One Wall Street
New York, New York 10005

Phillip B. Johnson, Esq.
205 Seventh Street
Rockford, Illinois 61104

Matsen, Cory, Matsen & Sprague
1117 Washington Building
Seattle, Washington 98101

Vladeck, Elias, Vladeck & Lewis, Esqs.
1501 Broadway
New York, New York 10036

Henderson, Daily & Foxworthy, Esqs.
2450 One Indiana Square
Indianapolis, Indiana 46204

Bader & Bader, Esqs.
274 Madison Avenue
New York, New York 10016

Zissu Lore Halper & Barron, Esqs.
450 Park Avenue
New York, New York 10022

Fried, Frank, Harris, Shriver & Jacobson, Esqs.
120 Broadway
New York, New York

Meyers, Stevens & Walters, Esqs.
Professional Corporation
Suite 9100 Zenity Center
6300 Wilshire Boulevard
Los Angeles, California 90048

John M. Kaveny, Esq.
11 S. LaSalle Street
Suite 705
Chicago, Illinois 60603

Massachusetts Mutual Life Insurance Company
1295 State Street
Springfield, Massachusetts 01111
Att: Warren R. Wise, Esq.

Seymour Fagan, Esq.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, California 90210

Dated: New York, New York
June 18, 1976

KRAUSE, HIRSCH & GROSS
Attorneys for Appellant

By: [signature]
A Member of the Firm
[illegible] East 42nd Street
[illegible] York, New York 10017

BEST COPY AVAILABLE

NOTICE

Bankruptcy Rule 806 requires that within 10 days following the filing of the "Notice of Appeal", you must serve and file a designation of the contents for inclusion in the record on appeal together with a statement of the issues to be presented on your appeal.

The items which you designate are to be physically removed from the files in Room 230 by you for presentation to the bankruptcy judge in sufficient time for him to comply with Bankruptcy Rule 807 requiring the bankruptcy judge to transmit the record on appeal to the Clerk of the District Court within 30 days after the filing by you of the designation of contents and statement of issues.

If you are the appellee, you shall, within 7 days after service of the appellant's statement, file with the court and serve on the appellant a designation of additional papers, if any. Should you, as appellee, do so, you are required to physically remove such papers from the files in Room 230 and present them to the bankruptcy judge so that he may comply with Bankruptcy Rule 807.

John E. Hancock's Designation of Record and Statement of Issues on Appeal to District Court Dated 6/14/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE	Reorganization Nos. 74 B 614-802 Inclusive
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al, Debtors	DESIGNATION OF RECORD AND STATEMENT OF ISSUES ON APPEAL

The appellant, John E. Hancock, by his attorneys, Krause, Hirsch & Gross ("appellant") having filed a Notice of Appeal on June 3, 1976 hereby designates the following for inclusion in the record on appeal and herein sets forth a statement of the issues he intends to present on the appeal:

1. Order dated May 24, 1976 (order appealed from) and Notice of Entry thereof dated May 28, 1976.
2. Application of Trustees dated April 29, 1976, and Exhibits thereto including the agreement between the trustees and appellant.
3. Order to Show Cause dated April 30, 1976.
4. Notice of Hearing on Application dated May 3, 1976, with annexed list of addressees.
5. Transcript of proceedings held May 17, 1976.
6. Telegrams dated May 17, 1976 from appellant to the Court and to the attorneys for Trustee.

II. STATEMENT OF ISSUES

Appellant John E. Hancock sets forth the following issues to be considered on the appeal taken by the filing of its Notice of Appeal dated June 3, 1976:

1. May Notice of a Sale in a Chapter X case be given to fewer than those required to receive it by Chapter X Rule 10-209(b) and omit some of the largest creditors who may have appeared without a showing and finding of good cause therefor?

2. Is adequate notice given of an auction sale by a notice which does not disclose the possibility of the acceptance of other bids or an auction?

3. May an application for an order confirming a bilateral contract for the sale of real property be opened to public bidding at the hearing without previous notice to the confirming buyer (appellant)?

4. May an application for an order confirming a sale be amended without adequate notice at the hearing to confirm, when the confirming buyer (appellant), shortly after the hearing notifies the Court and Trustee of his present intention to substantially increase his bid and enhance the estate?

Dated: New York, New York

June 14 1976

KRAUSE HIRSCH & GROSS

By _____

A member of the firm
Attorney for John E. Hancock
41 East 42 Street
New York, New York 10016
(212) 986-1122

JOHN M. KAVENY, ESQ.
11 S. LaSalle Street
Suite 705
Chicago, Illinois 60603

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY
1295 State Street
Springfield, Massachusetts 01111
Att: Warren R. Wise, Esq.

SEYMOUR FAGAN, ESQ.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, California 90210

AMF Incorporated's Designation of Record for Appeal to District Court Filed 6/14/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of

INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,

Debtors.

No. 74 B 614-802 (JMC)

DESIGNATION OF RECORD AND STATEMENT OF ISSUES ON APPEAL

I. DESIGNATION OF RECORD

Pursuant to Bankruptcy Rule 806 appellant AMF Incorporated designates the following papers to be included in the record on the appeal taken by the filing of its Notice of Appeal dated June 3, 1976:

1. Order dated May 24, 1976 (order appealed from) and Notice of Entry thereof dated May 28, 1976.
2. Order to Show Cause dated April 30, 1976.
3. Application of Trustees dated April 29, 1976, and Exhibits thereto.
4. Notice of Hearing on Application dated May 3, 1976, with annexed list of addressees.
5. Transcript of proceedings had May 17, 1976.
6. Telegram dated May 17, 1976, from John Hancock to the Court.

II. STATEMENT OF ISSUES

Appellant AMF Incorporated sets forth the following issues to be considered on the appeal taken by the filing of its Notice of Appeal dated June 3, 1976:

1. May Notice of a Sale in a Chapter X proceeding be given to fewer than those required to receive it by Bankruptcy Rule 10-209(b) without a showing and finding of good cause therefor?

2. Is adequate notice given of an auction sale or a sale after competitive bidding by a notice which does not disclose the possibility of the acceptance of bids or an auction?

Dated: New York, N. Y.
June 14, 1976

ROGERS HOGE & HILLS

By Frank H. Gordon
A Member of the Firm
Attorneys for AMF Incorporated
90 Park Avenue
New York, N. Y. 10016
(212) 953-9200

TO:

SHEA GOULD CLIMENKO KRAMER
& CASEY, ESQS.
330 Madison Avenue
New York, N. Y. 10017

MASSACHUSETTS MUTUAL LIFE
INSURANCE COMPANY
1295 State Street
Springfield, Mass. 01111

JOHN M. KAVENY, ESQ.
11 South LaSalle Street
Suite 705
Chicago, Illinois 60603

SEYMOUR FAGAN, ESQ.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, Calif. 90210

DOMINICK'S FINER FOODS, INC.
555 Northwest Avenue
Northlake, Illinois 60164

GOLENBOCK & BARELL, ESQS.
645 Fifth Avenue
New York, N. Y. 10022

Order to Show Cause Dated June 10, 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re

INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,

Debtors.

Reorganization
Nos. 74 B 614-802,
Inclusive

ORDER TO SHOW CAUSE

Upon the annexed application of KRAUSE, HIRSCH & GROSS, attorneys for JOHN E. HANCOCK, and the affidavit of JOHN E. HANCOCK, together with the exhibits annexed in support thereof, and sufficient cause appearing therefor why notice should not be given on the application for a temporary restraining order, and

It clearly appearing from said application that in the event the property described in the said application is conveyed transferred or sold, it will result in injury or damage to the applicant and this estate to the extent of the additional expenses incurred in recovering said property, and that said property could not be recovered from a bona fide purchaser, and the said damages will be irreparable for the reason that such additional expenses cannot be recovered by applicant or this estate, and that such irreparable injury or damage will result to applicant before hearing and determination of said order to show cause, and that an order should be issued temporarily restraining the trustees and Dominick's Finer Foods, Inc. and their agents, servants, employees and officers and all persons in active concert and participation with the said parties from selling, transferring or otherwise disposing of said property, and no adverse interest being represented, it is

ORDERED, that all parties who received notices of the judicial sale of the property located at 160 West Joe Orr Road, Chicago Heights, (the "Property"), which sale took place on May 17, 1976 ~~and~~ show cause before the undersigned Bankruptcy Judge, on the 28th day of June, 1976 at 10:30 o'clock in the fore noon or as soon thereafter as counsel may be heard at Room 236, the United States Courthouse, Foley Square, New York, New York, why an order should not be made and entered herein vacating and setting aside the order of this Court entered on May 24, 1976 authorizing the trustees herein to consummate the sale of the Property to Dominick's Finer Foods, Inc. for a price of $685,000, substantially on the terms and conditions of the May 17, 1976 agreement between Dominick's Finer Foods, Inc. and the trustees and renoticing the sale of the property, and it is further

ORDERED, that pending the hearing and determination of plaintiff's application vacating and setting aside the sale and order of May 24, 1976, the trustees and Dominick's Finer Foods, Inc., their agents, servants, employees and officers, be and they hereby are stayed, enjoined and restrained from selling, transferring or otherwise disposing of the said property described in the application, and

LET service by mail of a copy of this order and supporting documents upon the parties listed on the schedule annexed to the notice of hearing on application, addressed to each of said parties and posted not later than June 11th, 1976 be deemed good and sufficient service.

Dated: New York, New York
June 10, 1976

Bankruptcy Judge

Application of John E. Hancock Dated 6/10/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter	:	In Proceedings for the Reorganization of a
of	:	Corporation
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	Nos. 74 B 614-802 Inclusive
Debtors.	:	APPLICATION

TO: THE HONORABLE EDWARD J. RYAN, BANKRUPTCY JUDGE

JOHN E. HANCOCK, by his attorneys, KRAUSE, HIRSCH & GROSS, respectfully represents:

1. Heretofore on May 22, 1974 INTERSTATE STORES, INC., et al., filed petitions under the provisions of Chapter XI, Section 322 of the Bankruptcy Act and, thereafter, an amended petition for reorganization pursuant to the provisions of Chapter X of the Bankruptcy Act was filed on June 3, 1974. JOSEPH R. CROWLEY and HERBERT B. SIEGAL have been appointed as trustees in reorganization of Interstate Stores, Inc. and Illinois Topps Realty Corp., a subsidiary of Interstate Stores, Inc. also in reorganization under Chapter X of the Bankruptcy Act.

2. Illinois Topps Realty Corp. ("Realty") was the owner of 6.71 acres of land, the improvements thereon and certain property used in connection therewith located at 160 West Joe Orr Road, Chicago Heights, Illinois (the "Property")

3. Annexed hereto and made a part hereof is the above named trustees' application by the Trustees dated April 29, 1976 together with a copy of the contract entered into between the trustees and applicant dated the 20th day of April, 1976 Exhibit A the terms of which provide for the sale of the Property to Mr. Hancock, subject to the approval of this court.

4. Notice was sent to certain parties listed in an exhibit to a notice of hearing and application dated May 3, 1976, a copy of which is annexed hereto and marked as ("Exhibit B) which said notice provided that on May 17, 1976 at 9:30 a.m. a hearing would be held for consideration of an application for an order (i) approving an agreement between John E. Hancock and the Trustees as Trustees of Illinois Topps Realty Corp. ("Realty") to sell to Hancock the property and improvements at 160 West Joe Orr Road, Chicago Heights, Illinois for the price of $650,000 (ii) transferring all liens and security interests against any of the property (except permitted encumbrances) to the proceeds of the sale and (iii) authorizing the rejection of the store lease dated May 1, 1961, as amended, by the Trustees as Trustees of Realty.

5. It was not until immediately prior to the hearing for approval of the binding agreement that applicant was informed that at said hearing there may be another interested party, and that the Trustee might have to enter into negotiations with such a party.

6. Applicant's Chicago counsel informed Messrs. Rotkin and Yassky that, if the Trustees would consider negotiations with another party at this time, then applicant would be free to withdraw from the contract.

7. Messrs. Rotkin and Yassky informed applicant and his Chicago counsel that they would not permit such a withdrawal.

8. On May 17, 1976 the scheduled hearing took place before this court and at that time Dominick's Finer Foods, Inc. made a successful bid of $685,000 for the property.

9. During the course of the hearing, Mr. Yassky, attorney for the trustee stated there is a binding contract on this property between the Trustees and the buyer (Hancock) subject, of course, to the Court's approval.

10. As applicant's affidavit annexed hereto makes clear, Mr. Hancock received no notice from any source that the May 17th hearing was to be a public auction of the property. Even prior to the hearing he was not advised that the application to confirm the bilateral agreement would be converted by the Trustee and his attorneys at the hearing into a contract with a third party for the sale of the property.

11. Applicant was justifiably unprepared and had no reason to believe that he would be required to bid competitively at the public auction that was in fact conducted in the courthouse. This is borne out by applicant's Chicago counsel's statement that applicant is not prepared to top the successful bidder's higher offer "at this time".

12. Applicant was shocked at the turn of events since he was led to believe that the hearing was to be held for routine approval of the contract. A copy of the transcript of the hearing is annexed hereto as Exhibit C.

13. It was applicant's bid which initiated the hearing. Mr. Hancock was the initial bona fide offeror for this property which had been vacant for approximately two years.

14. Shortly after the conclusion of the hearing and in the same day, Mr. Hancock advised the court that he was prepared to bid $725,000 for the property, a sum $40,000 in excess of the successful bid by Dominick's Finer Foods, Inc. On May 24th 1976 an

order was signed by the Honorable Edward J. Ryan, Bankruptcy Judge, confirming the sale of May 17, 1976. A copy of the order is annexed hereto as Exhibit D.

15. That applicant is prepared to bid as his opening bid the sum of $725,000 for the property on the terms and conditions contained in the aforesaid agreement of April 20, 1976. These are the same terms and conditions under which Dominick's Finer Foods, Inc. attempted to obtain the property by the sale held on May 17, 1976.

16. That applicant is prepared to increase his bid if the circumstances of a properly noticed judicial sale warrant.

17. This application by applicant may be considered to be a firm offer in a properly noticed judicial sale.

18. That applicant is informed that the closing scheduled for the subject property in which the trustees would convey title to Dominick's Finer Foods, Inc. is set for June 25, 1976.

19. Unless the trustees and Dominick's Finer Foods, Inc. are temporarily restrained from conveying title, immediate and irreparable injury, loss or damage will result to applicant and the creditors of this estate. At a minimum, the creditors would lose an additional $40,000 and may substantially gain more money before notice can be served and a hearing had on an application for such temporary restraining order and hearing to vacate and set aside the sale.

20. In order to afford applicant a fair opportunity to enter into competitive bidding, the order confirming the

sale should be vacated and set aside and another hearing set for the sale of the subject premises.

WHEREFORE, applicant prays for a temporary restraining order forbidding the said trustees and Dominick's Finer Foods, Inc., their agents, servants, employees and officers from transferring, selling or otherwise disposing of the property hereinbefore described until such time as applicant's order to show cause is heard and determined and for such other and further relief as is just.

Dated: New York, New York
June 10, 1976

KRAUSE, HIRSCH & GROSS
Attorneys for John E. Hancock,
Applicant

By: _____
A Member of the Firm

41 East 42nd Street
New York, N. Y. 10017
Tel: (212) 986-1122

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter	:	In Proceedings for t Reorganization of a
of	:	Corporation
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	Nos. 74 B 614-802 Inclusive
Debtors.	:	
	:	APPLICATION

TO: THE HONORABLE EDWARD J. RYAN
BANKRUPTCY JUDGE, AS SPECIAL MASTER

The application of JOSEPH R. CROWLEY and HERBERT SIEGEL respectfully represents:

1. On May 22, 1974 the captioned debtors filed petitions under Chapter XI, Section 322, of the Bankruptcy A and, thereafter, an amended petition for reorganization pur to the provisions of Chapter X of the Bankruptcy Act was fil on June 13, 1974. Said amended petition was thereafter app by order of this Court dated June 13, 1974. Pursuant to sa order, your applicants were appointed, have qualified and a now acting as the Trustees of the captioned debtors.

2. The applicants are engaged in the operation general department stores and discount toy supermarkets.

3. Prior to the filing of the petitions herei debtor Illinois Topps Realty Corp. ("Realty") was the own 6.71 acres of land, the improvements thereon and certain property used in connection therewith located at 160 Wes Orr Road, Chicago Heights, Illinois (the "Property").

4. Applicants have entered into an agreement with Mr. John E. Hancock, dated the 20th day of April, 1976 (the "Contract"), agreeing to sell the Property to Mr. Hancock, subject to the approval of this Court; a copy of the Contract is annexed as Exhibit "A". The purchase price for the Property is $650,000.00, payable $45,000 on the execution of the Contract ($10,000 to applicants and $35,000 to an escrow trust established with Chicago Title & Trust Company, Chicago, Illinois), $401,641.57 at closing in cash and $203,358.43 by taking subject to the existing first mortgage, provided that the cash payable at closing shall be increased by the aggregate amount of reductions in the principal amount of that first mortgage.

5. The obligations of applicants to transfer and of Mr. Hancock to buy the Property are conditioned, among other things, upon the agreement of Digas Company of Delaware, a licensee of part of the Property, to waive certain of its possible rights under its license agreement dated July 17, 1973. Except for encumbrances specified in the Contract, the Property is to be sold free and clear of all liens and security interests encumbering the Property, which shall be transferred to the sale proceeds. A lease of the Property dated May 21, 1961 between the predecessor in interest of Realty and the predecessor of the debtor Topps of Chicago Heights, Inc. is not a permitted Encumbrance. Since the continued existence of said lease would prevent the consummation of the Contract, it is onerous and burdensome and Applicants, as Trustees of Realty, seek authority to reject same.

6. Applicants deem the agreement with Mr. Hancock to be in the best interests of the estates because the estates will realize in cash more than $446,000 and will be relieved of the mortgage debt service and real estate taxes on the Property. An appraisal of the Property will be furnished to the Court at the hearing on this application.

7. Applicants respectfully suggest that notice of this application in the form annexed as Exhibit B be given to those set forth on the list set forth as Exhibit C. Said list includes all parties who have appeared herein.

8. No previous application for the relief herein requested has been made.

WHEREFORE, applicants respectfully pray that an orde be entered:

(a) Approving the agreement with John E. Hancock dated April 20, 1976;

(b) Authorizing the performance of all of the term and condi s of that agreement and the taking of such furthe and additional action consistent therewith as is necessary to consummate that agreement;

(c) Transferring all liens and security interests against any of the Property (except those liens and security interests specified in the agreement as permitted encumbrance to the proceeds derived by applicants under the agreement;

(d) Authorizing the rejection of the lease dated May 1, 1961 by Applicants as Trustees of Realty;

(e) Granting such other further relief as may be just and proper.

Dated: New York, New York
April 21, 1976

/s/
Joseph R. Crowley, Trustee

/s/
Herbert B. Siegel
Additional Trustee

SHEA GOULD CLIMENKO KRAMER & CASEY
Attorneys for the Trustees

By /s/ Peter Yiossy
A Member of the Firm

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Reorganization Nos. 74 B 614-802 Inclusive
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	
Debtors.	:	NOTICE OF HEARING ON APPLICATION

NOTICE is hereby given that the 17th day of May 1976, at ~~2:15~~ 9:30 A.M. in the afternoon of that day, in Room 236, United States Courthouse, Foley Square, New York, New York has been fixed as the time and place for a hearing for the consideration of an application for an order (i) approving an agreement between John E. Hancock ("Hancock") and the Trustees as Trustees of Illinois Topps Realty Corp. ("Realty") to sell to Hancock the property and improvements at 160 West Joe Orr Road, Chicago Heights, Illinois for the price of $650,000 (ii) transferring all liens and security interests against any of the property (except permitted encumbrances) to the proceeds of the sale and (iii) authorizing the rejection of the store lease dated May 1, 1961, as amended, by the Trustees as Trustees of Realty.

The application is on file in the office of the Honorable Edward J. Ryan, Bankruptcy Judge, and may be examined by interested parties in Room 230, United States Courthouse, Foley Square, New York, New York, during regular business

NOTICE IS FURTHER GIVEN that the said hearing may be adjourned from time to time without notice other than the announcement of the adjourned date or dates at the hearing.

BY ORDER OF THE COURT

Dated: New York, New York
May 3, 1976

Joseph R. Crowley and Herbert B. Siegel, Trustees
c/o Interstate Stores, Inc.
111 Eighth Avenue
New York, N. Y.
(212) 741 - 6200

SHEA GOULD CLIMENKO KRAMER & CASEY
Attorneys for the Trustees
330 Madison Avenue
New York, N. Y. 10017
(212) 661-3200

Levin & Weintraub, Esq.
225 Broadway
New York, New York 10007

Securities and Exchange Commission
26 Federal Plaza
New York, New York 10007

White & Case, Esq.
14 Wall Street
New York, New York 10005

Zalkin, Rodin & Goodman, Esqs.
750 Third Avenue
New York, New York 10017

Popper & Popper, Esqs.
200 Fifth Avenue
New York, New York 10010

Leinwand, Maron, Hendler & Krause, Esqs.
10 East 40th Street
New York, New York 10016

Milbank, Tweed, Hadley & McCloy, Esqs.
One Chase Manhattan Plaza
New York, New York 10005

Wachtell, Lipton, Rosen & Katz, Esqs.
299 Park Avenue
New York, New York 10017

Robert Schwartz, Esq.
Manufacturers Hanover Trust Company
350 Park Avenue
New York, New York 10022

Debevoise, Plimpton, Lyons & Gates, Esqs.
299 Park Avenue
New York, New York 10017

Emmet, Marvin & Martin, Esqs.
48 Wall Street
New York, New York 10005

Cadwalader, Wickersham & Taft, Esqs.
One Wall Street
New York, New York 10005

Phillip B. Johnson, Esq.
205 Seventh Street
Rockford, Illinois 61104

Matsen, Cory, Matsen & Sprague
1117 Washington Building
Seattle, Washington 98101

Vladeck, Elias, Vladeck & Lewis, Esqs.
1501 Broadway
New York, New York 10036

Henderson, Daily & Foxworthy, Esqs.
2450 One Indiana Square
Indianapolis, Indiana 46204

Bader & Bader, Esqs.
274 Madison Avenue
New York, New York 10016

Zissu Lore Halper & Barron, Esqs.
450 Park Avenue
New York, New York 10022

Fried, Frank, Harris, Shriver & Jacobson, Esqs.
120 Broadway
New York, New York

Meyers, Stevens & Walters, Esqs.
Professional Corporation
Suite 9100 Zenith Center
6300 Wilshire Boulevard
Los Angeles, California 90048

John M. Kaveny, Esq.
11 S. LaSalle Street
Suite 705
Chicago, Illinois 60603

Massachusetts Mutual Life Insurance Company
1295 State Street
Springfield, Massachusetts 01111
Att: Warren R. Wise, Esq.

Seymour Fagan, Esq.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, California 90210

BEST COPY AVAILABLE

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
(In Bankruptcy)

In the Matter

of

INTERSTATE STORES, INC., et al,

Debtors.

No. 74 B 614-802

United States Court House
Foley Square, New York, N. Y.

May 17, 1976
9:30 a.m.

Before:

HON. EDWARD J. RYAN

Bankruptcy Judge

HEARING TO CONSIDER OFFER

Appearances:

MESSRS. SHEA, GOULD, CLIMENKO,
KRAMER & CASEY
Attorneys for Trustees
BY: PHILLIP MANN, ESQ.,
and
LESTER YASSKY, ESQ.,
of Counsel

APPEARANCES: (Continued)

MERYL WIENER,
Attorney for SEC

MESSRS. GOLENBOCK & BARELL
Attorneys for Offerer
BY: SAMUEL GALOWITZ, ESQ.,
and
ARTHUR SILVERMAN, ESQ.,
of Counsel

MESSRS. ZALKIN, RODIN & GOODMAN
Attorneys for Senior Institutional Lenders
BY: ANDREW GOTTFIED, ESQ.,
of Counsel

* * * * *

THE COURT: Good morning, gentlemen and Ms. Wiener.

Mr. Yassky, we have several matters on this morning.

MR. YASSKY: Yes, if I could please take them up in a certain order your Honor, I think we can dispose of some of the easier ones first.

One of the matters on is for approval of the execution of the warehouse lease for the Toys'R Us Division. This is just a one-year lease.

THE COURT: Is that Milwaukee?

MR. YASSKY: No. This is Houston.

THE COURT: Does any interested party wish to be heard with respect to this application?

(No response.)

THE COURT: I will ask you then, Mr. Yassky to submit an appropriate order.

MR. YASSKY: Thank you, your Honor.

The next matter I would like to address myself to is for approval to enter into a lease for a new Toys'R Us Store in Milwaukee.

THE COURT: Does any interested party wish to be heard with respect to this application?

(No response.)

THE COURT: Very well, the application is granted. Will you please submit an appropriate order.

MR. YASSKY: The third matter, your Honor is the nunc pro tunc order with respect to salaries.

THE COURT: All right, does any interested party wish to be heard with respect to this application to pay certain present

and former employees additional salaries?

(No response.)

THE COURT: There being no adverse recommendation, on the basis of the facts set forth in the papers, the application is granted. Would you submit an appropriate order.

MR. YASSKY: The last matter we have on this morning, your Honor, is an application to approve the sale of certain vacant premises owned by one of the debtors in this proceeding in Chicago Heights, Illinois. Again, the facts supporting this application are set forth therein. We have received an offer. The trustees have entered into a written contract for the sale of this property at a price of $650,000. There is a mortgage on the premises that had a balance of approximately $200,000 and the property would be sold subject to that mortgage and the balance will be paid in cash at the closing.

THE COURT: And the other pertinent data is set forth in the papers?

MR. YASSKY: Yes, your Honor. As I

said, your Honor, there is a binding contract on this between the Trustees and the buyer, subject, of course, to this Court's approval. At the end of last week, the Trustees received indications of interest from another party and they indicated that they intended to come here this morning and make an offer to the Trustees, and we certainly believe that the Trustees are obligated and this Court is obligated to give these parties an opportunity to be heard.

THE COURT: When did the Trustees first hear from this party?

MR. YASSKY: I believe it was -- if I can consult --

THE COURT: Approximately? I could be important.

MR. YASSKY: It was sometime last week.

THE COURT: Last week had five business days. Can you tell me whether it was early or late in the week?

Was it 4:30 Friday afternoon, or was it early Monday morning?

MR. YASSKY: I believe we received a call on Monday of last week.

THE COURT: On Monday and was pertinent data requested of the trustees?

MR. YASSKY: Yes, pertinent data was requested on Wednesday and we furnished to them the information, I believe on Thursday and we have conveyed this information to the buyer.

THE COURT: So far they are fully informed of the nature of the outstanding offer; is that correct?

MR. YASSKY: Yes.

Both parties are, I think, fully informed. In other words, the contract buyer, Mr. Hancock, was also informed that there is another party that indicated interest and we advised Mr. Hancock of the facts.

THE COURT: We know that Mr. Hancock was sufficiently informed to make the offer that we now have before us. Now, does any other person wish to make an offer to purchase from the Trustees the property at 160 West Joeowr Road?

MR. SILVERMAN: I am from the firm of Golenbock & Barell. We represent Dominick's Finer Foods, Inc., which is a subsidiary, wholly owned subsidiary of Fisher Foods, Inc., a company which has a chain of 205 supermarket and grocery type stores throughout the United States which in 1975 had sales of $1.5 billion, approximately, and net income of $12.5 million.

We have examined the proposed contract between the Trustees and Mr. Hancock. On behalf of my client, we are prepared to enter into the identical contract. We have resolutions here in court. We have duly authorized officers of the corporation, vice-president and an attorney from the corporation. On the same terms with two differences. First, our client would offer $675,000 instead of $650,000. Secondly, in response to a request from the Trustees, our client would be willing to forego the escrow type closing provisions which are in this contract and would proceed in the normal type of New York type closing, with a title policy and title commitment to be delivered at closing showing clean title;

that is, a substitute to the escrow type closing, though we are prepared to do the escrow type closing.

THE COURT: Well, the second feature, of course, is merely form. It doesn't go to substance, would you not agree?

MR. SILVERMAN: That is correct. The only other aspect which goes to form is that the closing date set forth in the contract is June 1st. We have spoken to the Attorneys for the Trustees and there apparently is no difficulty in having the closing date to be not less than ten days nor more than 30 days after final order, as final order is defined in the contract of sale. So that it's on a certain number of days after final order.

THE COURT: Mr. Yassky, is it a fair statement then insofar as the Trustees are concerned it's simply a question of how much?

MR. YASSKY: I think that's a fair statement.

THE COURT: I assume from the presentation of counsel that the Trustees have looked into the question and have no doubt of the

financial responsibility of our second offerer?

MR. SILVERMAN: Your Honor, I have in the courtroom --

THE COURT: It isn't necessary. I would rather hear from Mr. Yassky.

MR. YASSKY: Based on the limited information we have, your Honor, it seems there isn't enough to distinguish between the parties on their financial worth. However --

THE COURT: Does the representative of Hancock wish to be heard?

MR. KAVENY: My name is John Kaveny, 11 South LaSalle Street, Chicago, Illinois. I am the attorney for Mr. Hancock, who is here with me this morning.

We have no further comment except that we have our offer. The Trustee has it signed. We don't wish to raise our offer at this time, your Honor. We are prepared to proceed as of June 1st closing.

MR. SILVERMAN: I failed to state --

THE COURT: I think I take judicial notice of the fact that $675,000 is $25,000 more than $650,000.

Now, Mr. Yassky, do you know of any reason why the Trustees should not be authorized to accept the higher offer?

MR. YASSKY: No, your Honor. We think the Trustees are duty bound to get the best price for the property and you also could take judicial notice of the difference. We think that Mr. Hancock, being the first party, certainly should have the opportunity to meet that offer.

THE COURT: He certainly has, and if you wish 15 minutes or a half an hour to give it full consideration gentlemen, I will certainly afford you that opportunity.

MR. KAVENY: No, your Honor. We made what we considered to be a good-faith offer. If Mr. Yassky feels it's the same good faith offer, the Dominick People provide the title coverage and no brokerage involved and what have you, then it simply is $25,000 more than what we offered.

THE COURT: You are not prepared to undertake to top the $25,000 offer, sir?

MR. KAVENY: Not at this time.

MR. YASSKY: I would like a representation in court, your Honor, by the Dominick People that there is no broker representing their parties which the Trustees will be liable --

THE COURT: If you want Mr. Yassky, five or ten minutes for the dust to settle here, not that there is too much dust raised, is there any obligation of a deposit at the present time?

MR. YASSKY: They have so advised the Court that they have a check available and intend to sign this contract today, and I would like -- if that's the case, I would like to in effect convert this application for authority to enter into this contract. They say it's identical to the contract that's before the Court and substitute the parties. I don't think it would be necessary to go before this Court again.

THE COURT: Now, before we proceed any further, does any other interested party wish to be heard?

(No response.)

THE COURT: All right.

MR. YASSKY: I would also like to make clear for the record that the Trustee has entered into this arrangement in good faith with Mr. Hancock and certainly would abide by the terms of the contract. However, it certainly is subject to this Court's approval, and with the higher offer presented to this Court today, I believe that the Trustees have no choice but to accept the higher price on it.

THE COURT: I have absolutely no doubt that the Trustees and Mr. Hancock have acted in the best of faith and there is no need for us to review the body of law that points out that a Trustee's sale is actually a sale by the Court rather than by the Court-appointed fiduciaries, and the Court is under an obligation to accept the highest price at least before the sale is confirmed. After the sale is confirmed, there is a much heavier standard required in order to vacate the sale. But in the present posture of the case, I think the Trustees have an obligation to

accept the higher figure.

Now, unless you feel anything else needs to be added to the record at this time Mr. Yassky, I am prepared to approve your application and to amend this hearing to one, to accept the offer made by the principals who are represented by Golenbock & Barell.

Yes sir, did you wish to be heard?

MR. KAVENY: If I may, I spoke with Mr. Hancock for a moment more and Mr. Hancock indicates that he is willing to go the price at $675,000.

MR. SILVERMAN: Your Honor, we raise to $685,000.

MR. HANCOCK: This is fun and games.

MR. KAVENY: We withdraw it.

THE COURT: No comment need be made on Mr. Hancock's characterization of "fun and games." So this hearing is concluded. I will ask you Mr. Yassky to see that the appropriate papers are prepared which will approve the offer of the principals represented by Golenbock & Barell to pay the sum of $685,000 for this property.

All right, gentlemen, thank you very much.

(The matter was closed.)

EXHIBIT D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re :

INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al., : Reorganization Nos. 74 B 614-802

Debtors. : ORDER TO SHOW CAUSE

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At New York, New York in said District on the 30th day of April, 1976

Upon the annexed application and sufficient cause appearing therefor and no adverse interest having been represented, it is

ORDERED, that those on the annexed list show cause before the undersigned, in Room 236 of the United States Courthouse, Foley Square, New York, New York on the 17th day of May, 1976, at 10:30 A.M., or as soon thereafter as counsel can be heard, why the within application should not be granted, and it is further

ORDERED, that service of a notice in the form annexed hereto as Exhibit "B" upon those set forth on the list annexed hereto as Exhibit "C" by mail or by personal service on or before May 7th, 1976 shall be deemed good and sufficient service.

s/ Edward J. Lyons
Bankruptcy Judge

Affidavit of John E. Hancock Dated 6/4/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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In re

INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,

Debtors.

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STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

JOHN E. HANCOCK, being duly sworn, deposes and says that:

1. I make this affidavit in support of the application being made by my counsel to the Court requesting that the order entered on May 24, 1976 by the HONORABLE EDWARD J. RYAN, Bankruptcy Judge, selling certain property located at 160 West Joe Orr Road, Chicago Heights, Illinois (the Property) to Dominick's Finer Foods, Inc. (Dominick's) be set aside and that the Property be made the subject of a properly noticed judicial sale.

2. In the early part of March 1976 I became interested in the possible acquisition by me of the Property. During March 1976, I began to negotiate with Jeffrey Finkel, whom I understood to be in charge of real estate of Interstate Department Stores generally and the gentleman with whom I should negotiate with respect to the purchase of the Property.

3. It was not until later that I learned that the Property was formally in the possession of Joseph R. Crowley and Herbert B. Siegel, as Trustees of Illinois Topps Realty Corp., the corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act.

4. During March and April of 1976, Mr. Finkel and I spoke on numerous occasions and negotiated the basic terms of the transaction under which I would acquire the Property for the negotiated price of $650,000.00.

5. While Mr. Finkel and I were continuing to negotiate the basic business terms of the transaction, my counsel and Gilbert Rotkin, Esq. of the law firm of Shea, Gould, Climenko, Kramer & Casey, began their discussions with respect to the format of the written agreement between myself and the Trustees, as well as other legal matters relating to the purchase.

6. After all of the business terms had been agreed to, and after extensive drafting efforts, on April 20, 1976, the Trustees and I entered into an agreement, Exhibit "A" annexed hereto, under the terms and conditions of which I agreed to buy and the Trustees agreed to sell to me the Property for the price of $650,000.00. In order to expedite the execution of this agreement, my representative came to New York for the purpose of obtaining the signed agreement from the Trustees. In addition, I caused the Chicago Title Company to do a title search with respect to the Property and, in all respects, acted as promptly as possible to acquire the Property.

7. I was informed by Mr. Finkel that the agreement which I entered into would have to be approved by the Bankruptcy Court and that such approval would be forthcoming on May 17, 1976. I came to New York on May 17, 1976 with my counsel for the sole purpose of obtaining a signed order of the Court approving the sale so that I might obtain an order affirming such sale and hand-carry same back to Chicago Title Company in order to expedite my acquisition of the Property. Immediately preceding the Hearing in Court,

my counsel and I were informed by Mr. Rotkin and Lester Yassky, Esq., also of the firm of Shea, Gould, Climenko, Kramer & Casey, that there might be one other person present in Court that was interested in the Property. Messrs. Rotkin and Yassky informed my counsel and myself that should there be another interested party, the Trustee might have to enter into negotiations with such a party. My counsel informed Messrs. Rotkin and Yassky that if the Trustees would consider negotiations with another party at this time, then I would be free to withdraw from the contract. Messrs. Rotkin and Yassky informed my counsel and myself that they would not permit such a withdrawal.

8. I learned at the Hearing in Court on May 17, 1976 that on Monday of the prior week, counsel for the Trustees had received a request for information with respect to the Property. The information that the Trustees had been approached by someone seeking information with respect to the Property was conveyed to myself and my counsel on the Thursday or Friday preceding the May 17th Court date, but neither Mr. Yassky nor Mr. Rotkin ever suggested that any other person would be permitted to bid in Court on May 17th.

9. I was present in Court with my counsel when the application to approve my agreement with the Trustees for the acquisition of the Property was called. At that time, a gentleman whose name I do not know but who indicated that he was a representative of Dominick's Finer Foods, Inc., informed the Court that Dominick's was prepared to bid $675,000.00 for the Property on the same terms and conditions as those contained in the agreement between myself and the Trustees.

10. I was surprised and dismayed to realize that another party would be permitted to bid for the Property after I had enter-

ed into an agreement to purchase the Property. Apparently the Court took the position that the contract which I had signed to acquire the Property was nothing more than an offer to acquire the Property I acted under the assumption that I had entered into an agreement binding upon myself to acquire the Property for $650,000.00 and that I was not merely making an offer. The Court suggested that I might have some fifteen minutes or one-half hour to consider whether or not I wished to meet the offer. Quite frankly, so unexpected was the nature of the turn of events that confronted me in Court that I was completely unprepared to deal with this new situation. Obviously Dominick's representative who appeared to be aware of the fact that an auction was going to take place was able to give a great deal more consideration to the responses that he wished to make at such an auction. Further, the record makes it clear that counsel for the Trustees obviously anticipated that an auction was to take place. I appeared to be the only person in Court who was unaware that the contract that I had entered into was about to become the subject of an auction.

11. I nonetheless indicated in response to the Court's inquiry that I would match the Dominick's offer. At that point, Dominick's representative increased his offer by $10,000.00 to $685,000.00. I then recognized that what was taking place was, in effect, a public auction for the Property, which up to that moment, I believed I had already acquired subject only to the formality of Court approval. At that point, being totally unaware that there was to be a public auction and being completely unprepared for such an auction and at a loss as to how to conduct myself under those circumstances, I left the Courtroom and returned to my home in Lansing, Illinois.

12. I realized when I returned to Lansing that if the nature of the proceeding was to be that of a public auction, I would be perfectly prepared to participate in such an auction had I but known that an auction was to be the format for the acquisition of the Property. I thereupon called Judge Ryan's secretary and informed his office that I was prepared to bid $725,000.00 for the Property. That telephone call was made on May 17, 1976 at about 1:30 P.M. New York time, the same day as the Court Hearing. That evening, a telegram was sent to the Court confirming my $725,000.00 offer for the Property. A copy of said telegram was also sent to the Trustees.

13. At no time prior to my arrival in Court on May 17, 1976, was I ever made aware that the contract which I had negotiated and the purchase price contained therein were merely to become the minimum upset price at an auction of the Property. In point of fact and directly contrary to that, Mr. Finkel, the Trustees' employee, informed me that the purchase price we had agreed to was close to the appraised value of the Property and that approval by the Court of the terms and conditions of the contract would be a mere formality.

14. At no time did Mr. Rotkin or any other representative of the law firm which was counsel to the Trustees or the Trustees ever inform either my counsel or myself that bids would be accepted on May 17, 1976 at the Court Hearing for the Property.

15. Mr. Finkel had informed me that parties could, on May 17, 1976, object to the agreement which I had made with the Trustees to purchase the Property but never did he indicate that public bidding would ensue.

16. I am advised by my counsel that the Notice of Hearing on the Application for an order approving the agreement made no mention to the effect that other and higher bids for the Property would be accepted on May 17th.

17. My counsel, Mr. Kaveny, received a copy of the Notice of Hearing on Application, but since the Notice did not indicate that there would be public bidding, neither he nor I were ever aware that there would be public bidding. Had the Notice indicated that there was to be public bidding, then I would have had an opportunity to prepare myself for that occasion and to be ready to participate in such bidding. Further, had Mr. Finkel ever in our negotiations indicated to me that the purchase price that he and I were to agree to was only to be the floor for subsequent public bidding, that information might have affected the purchase price that we agreed to in the agreement.

18. I indicated in my telegram to the Court that I was prepared to conclude the agreement with the Trustees for the acquisition by me of the Property for $725,000.00. I now confirm that I am ready, willing and able to conclude the same transaction for $725,000.00.

19. I believe that as a basic matter of fairness, Mr. Finkel should have informed me initially that my agreement with the Trustees and whatever purchase price for the Property was set forth in the agreement would be the subject of public bidding. Since that information was not forthcoming from Mr. Finkel, nor was that information forthcoming from the Trustees' counsel to my counsel, nor was that information contained in the Notice of Hearing on the Application (I parenthetically note and am informed by my counsel herein, that ordinarily, a Notice with respect to the

sale of real property usually indicates that bids will be accepted) I was deprived of my right to be a participant in the ultimate sale of the Property, even though I had expended substantial amounts of time and funds in order to achieve a signed agreement with the Trustees. In this regard, it should be noted that unlike the conventional real estate contract of sale, I undertook to pay for a survey, all title costs, escrow agent fees, and the like, items which ordinarily would be split as expenses by the buyer and the seller.

20. I submit that to put me in the position of not having adequate notice that there was to be a public auction so that I might prepare myself to participate in such an auction, would be to deprive me of all of the efforts I had made in good faith to acquire this Property for a not insubstantial sum of money. To continue to deprive me of an opportunity to participate in a properly noticed "auction" for the Property, based on a contract, the preparation of which was a substantial expense I have already borne, is to doubly place an unfair burden upon me. Lastly, the fact that I am prepared to open any future bidding with respect to this Property at $725,000.00, $40,000.00 more than the last highest bid, is I think some indication of the seriousness of my desire to acquire the Property. I believe it also should indicate to the Court and to all interested parties that had I had notice that there would be an auction sale and had an opportunity to prepare for it, I would not have retired from the bidding at $675,000.00.

21. I believe that in fairness to me and to those few creditors who received a copy of the defective Notice of Hearing

on application, which failed to mention that bidding would be permitted, the Court should set aside the order confirming the sale to Dominick's and reschedule the sale of the Property upon proper notice to all creditors which I submit that since I have already bid $40,000.00 more than the last highest bid, would be of significant benefit to the creditors generally in this proceeding.

JOHN E. HANCOCK

Sworn to before me this
4th day of June, 1976.

Notary Public

JOSEPH SAMET
Notary Public, State of New York
No. 24-4614433
Qualified in Kings County
Commission expires March 30, 1977

EXHIBIT A

AGREEMENT made this 20 day of April, 1976 by and between JOSEPH R. CROWLEY and HERBERT B. SIEGEL, as Trustees of Illinois Topps Realty Corp, a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York under File Nos. 74B614-802, inclusive, and not individually ("Seller") and JOHN HANCOCK ("Buyer").

W I T N E S S E T H :

1. Sale, Definitions

1.1 Seller agrees to sell, assign, convey and transfer to Buyer and Buyer agrees to purchase from Seller the real property described in Schedule 1.2(b) for the price and on the terms hereafter stated.

1.2 For purposes of this contract, unless the context shall otherwise indicate, the terms set forth below shall be defined as follows:

(a) The words "District Court" shall mean the United States District Court of the Southern District of New York.

(b) The words "Premises" shall mean the land described in Schedule 1.2b attached hereto, and the Improvements located thereon.

(c) The word "Closing" shall mean the consummation of the transactions referred to in this contract which shall not occur prior to entry of the Final Order, but in no event later than June 1, 1976, at the office of Chicago Title and Trust Company, 111 West Washington Street, Chicago, Illinois.

(d) The word "Buyer" shall include an assignee as provided in 12.

(e) The words "Final Order" shall mean an Order issued by the District Court having jurisdiction over the proceedings for the reorganization of the Seller (nos. 74B614-802, inclusive) after notice by the means and to the parties designated by the District Court and a public hearing before the District Court and with respect to which the time to appeal or further to appeal has expired and which grants to Seller the

legal authority to enter into and to observe, fulfill and perform all of the terms and conditions of this contract and the Option Agreement.

(f) The word "Improvements" shall mean the buildings, structures and other facilities on the Premises, together with all right, title and interest of the Seller in the fixtures installed and used in connection with the operation of the building and structures on the Premises and the personal property described in Schedule 1.2f.

(g) The word "Seller" shall include Messrs. Crowley and Siegel as Trustees of the corporations in proceedings for reorganization of Corporations bearing File Numbers 74B614-802 in the District Court, as well as where the context so requires, those corporations.

(h) The words "Marketable Title" shall mean good and marketable title to the Premises free and clear of all liens, encumbrances, agreements, restructions and burdens, except for Permitted Encumbrances.

(i) The words "Digas License Agreement" shall mean the license agreement dated July 17, 1973 between Topps of Chicago Heights, Inc., as Licensor and Digas Company of Delaware, as Licensee.

(j) The words "Escrow Agreement" shall mean the Escrow Agreement dated , 1976 among Seller, Buyer and Chicago Title and Trust Company as Escrow Agent ("Escrow Agent"). A copy of the Escrow Agreement is attached hereto and marked Exhibit 1.2j.

(k) The word "Mortgage" shall mean the mortgage dated November 1, 1961 from Bonobest Development Corporation to the Massachusetts Mutual Life Insurance Company and recorded as document 18363477 in the Office of the Recorder, Cook County, Illinois and on which there is $203,358.43 outstanding on March 1, 1976, together with accrued interest.

(l) The term "Collateral Security Documents" shall mean assignments of rent, security agreements, financing statements or other documents granting additional security or powers to the holder of the Mortgage.

(m) The term "Permitted Encumbrances" shall mean the matters, exceptions and state of facts affecting title to the Premises, as listed below:

(1) All liens for fiscal 1975 or the current or future fiscal periods for unpaid real estate and personal property taxes, vault charges, assessments, water and sewer charges and rents, subject to adjustment under 8.4 and 8.5.

(2) All violations of law or governmental ordinances, orders or requirements, noted or issued by any govern-

mental office, department or authority having jurisdiction ("governmental authorities"), but which as of the date hereof were not noted or issued by any governmental authority.

(3) All present and future zoning and building laws, ordinances, codes, restrictions and regulations of all governmental authorities and zoning variances and special exceptions, if any, and all present or future violations thereof.

(4) Any state of facts (including but not limited to changes in the line or the alignment of any street) a current survey of the Premises, or a physical inspection thereof, would disclose, including, without limitation, all encroachments and projections of the Improvements upon or over streets or adjacent premises and all encroachments and projections on or over the Premises.

(5) Consents by any present or former owner of any of the Assets or any part thereof for the erection or maintenance of any structure or structures on, under or over any abutting street or streets.

(6) All rights, easements and agreements, whether or not of record, for the erection and/or maintenance of water, gas, electric, telephone, sewer or other utility pipe lines, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the Premises.

(7) Possible lack of or revocable nature of the right, if any, to maintain or use any space, facilities or appurtenances outside the boundaries of a property or the building lines, whether on, over or under the ground, including, without limitation, all vaults, marquees, signs and sidewalk openings.

(8) Possible easements over or failure of title to that part, if any, of any property lying in or under the bed of any street, road or highway, open or proposed, on, in from of or adjoining the premises as such street, road or highway is presently or was formerly laid out, or is shown on any filed map.

(9) The Mortgage.

(10) The Digas License Agreement.

(11) Covenants and restrictions in deed dated April 28, 1961 and recorded May 3, 1961 as document 18152214 that premises in question should not be used for a retail super market grocery business provided this prohibition shall not apply to a department store with food department nor a delicatessen not excess of 10,000 square feet.

(12) Easement for telephone and electric service, together with right of access to the Premises as created

by Grant to Commonwealth Edison Company and the Illinois Bell Telephone Company recorded August 17, 1961 as document 18250078.

(13) Easement for a sanitary sewer over the North 15 feet of the South 60 feet as shown on the plat dated April 1, 1960 known as C 1337 and plat dated May 11, 1961 known as D 852 of the Mulford Engineering Service of Chicago Heights, and referred to in agreement between Chicago Title and Trust Company as trust No. 35881 to Bonobest Development Corporation dated August 10, 1961 and recorded August 22, 1961 as document 18254389.

(14) Easement for an 8 inch sanitary sewer line dated December 1, 1961 and recorded February 23, 1962 as document 18408598 made by Bonobest Development Corporation to the Kroger Company.

(15) Easement for telephone and electric service, together with right of access to the Premises as created by Grant to Commonwealth Edison Company and Illinois Bell Telephone Company recorded September 13, 1962 as document 18589611.

(16) Party walls on East and West lines of the Premises.

(17) Agreement dated April 15, 1971 between Seller and The Kroger Co, as amended by letter dated May 20, 1971.

2. Purchase Prices

2.1 The purchase price for the Premises is $650,000.00 to be paid as follows:

(a) $45,000.00 in cash on the signing of this contract, payable as follows (i) $10,000 to Seller and (ii) $35,000 to the Escrow Agent, to be held pursuant to the Escrow Agreement.

(b) $401,641.57 at Closing in cash;

(c) $203,358.43 by taking subject to but in no way assuming the Mortgage provided, however, that if any principal payments, including a prepayment in whole or in part of the Mortgage, be made by the Seller, those principal payments, together with all costs incurred in making those payments, including but not limited to all prepayment penalties, shall be added to the amount in (b) to be paid in cash.

2.2 All closing cash payments shall be made by certified or official bank check drawn on or by a New York Clearinghouse member bank and payable to Seller.

3. Covenants

3.1 Buyer agrees, as follows:

(a) To pay all taxes, and charges in the nature of or in lieu of taxes, and filing and recording fees arising out of this contract or the Escrow Agreement, or the sale, assignment or transfer of the Premises, or the delivery, filing or recording of the deed, assignments of lease or other instruments of conveyance or transfer and to indemnify and hold the Seller harmless therefrom.

(b) Buyer agrees for a period of three years following the Closing to make available to the Seller for inspection and copying at reasonable times upon reasonable advance request all records of the Seller delivered to Buyer in connection with the Closing.

3.2 The parties agree, as follows:

(a) All certiorari proceedings pending on the Closing with respect to the Premises for the reduction of the tax assessment for years prior to the current fiscal tax year may, at the Seller's election, be continued by the Seller and the Seller shall have the right to make any settlement thereof without Buyer's approval and shall be entitled to retain all

savings and refunds obtained therefrom. Buyer acknowledges that proceedings before the Board of Appeals of Cook County have resulted in a reduction in the assessed valuation of the Property in accordance with the letter dated March 9, 1976 from Max Earl Sherman, Esq., 100 N. LaSalle Street, Chicago, Illinois ("Sherman"), a copy of which is attached hereto and marked Exhibit 3.2. The net amount of any reduction in the real estate taxes for the current fiscal tax year (and any prior tax year on account of which payments are made in the current year), whether by way of refund, credit or other savings, shall be apportioned between the Seller and Buyer, after the payment of attorneys' fees, experts' fees and other disbursements, in the same manner as provided in 8.4; provided however that Seller's liability for the legal fees and disbursements of Sherman shall not exceed, and Seller agrees to pay to Sherman, 25% of the tax savings received by Seller on account of the proceedings concluded by Sherman and Buyer agrees to pay and hereby indemnifies and holds Seller harmless against the balance of legal fees and disbursements payable to Sherman pursuant to Exhibit 3.2.

(b) Any dispute arising out of or in connection with this contract or the making hereof shall be submitted by the parties for resolution to the District Court. Buyer agrees he will not, and waives all right to, file a lis pendens in connection with any dispute hereunder. Following the Closing,

Buyer shall have no right of rescission for any representation, agreement or promise of the Seller surviving the Closing.

(c) Seller and Buyer shall use their best efforts to perform with reasonable dispatch the acts to be done by each of them to satisfy the conditions precedent to the Closing.

(d) At any time and from time to time after the Closing, each party hereto shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such additional instruments or documents and shall take or cause to be taken such further action as the party may reasonably request to evidence and effectuate the transactions contemplated under this contract.

4. Conditions Precedent

4.1 As conditions precedent to Buyer's obligation to purchase the Premises, and to perform its other obligations under this contract:

(a) The Final Order shall have been obtained.

(b) No event described in 5 or 6 which would permit Buyer to elect to terminate this contract shall have occurred.

(c) All of the documents to be delivered by the Seller pursuant to 7 shall be delivered.

(d) The licensee under the Digas License Agreement shall have waived its right, if any, to terminate the Digas License Agreement or require the licensor under that agreement to purchase any of the licensee's property by reason of the closing of the store operated by Topps of Chicago Heights, Inc. on the Premises or the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, provided that Buyer shall have agreed to the reasonable satisfaction of such licensee to recognize such licensee as his tenant.

4.2 As conditions precedent to Seller's obligation to transfer the Premises:

(a) The Final Order shall have been obtained.

(b) Buyer shall have duly tendered the payments and the instruments described in 2, 3 and 7.

(c) The licensee under the Digas License Agreement shall have waived its right, if any, to terminate the Digas License Agreement or require the licensor under that agreement to purchase any of the licensee's property by reason of the closing of the store operated by Topps of Chicago

Heights, Inc. on the Premises or the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, provided that Buyer shall have agreed to the reasonable satisfaction of such licensee to recognize such licensee as his tenant.

5. Title and Title Insurance

5.1 Buyer, at its sole cost, shall make application promptly after the date hereof to a title insurance company for its commitment to Buyer to issue upon the payment of its regular premium an ALTA Standard Form B, 1970 revision, title insurance policy insuring the Buyer's Marketable Title to Premises in the amount being paid therefor as specified in 2 of this contract, subject only to Permitted Encumbrances. Buyer shall notify the Seller as promptly as possible and in any event at least fifteen (15) days prior to the Closing of any exceptions, defects or objections which Buyer claims are not Permitted Encumbrances. Failure to give such notice shall not, however, constitute a waiver of any such exception, defect or objection.

5.2 If at Closing the Seller is unable to convey to Buyer title to the Premises subject to and in accordance with the provisions of this contract or is unable to fulfill any condition to Buyer's obligations under this contract, the Seller shall be entitled, upon written notice delivered to Buyer at or prior to the Closing, to reasonable adjournments of the Closing date one or more times, for not exceeding 60 days in

the aggregate, to enable the Seller to convey such title or fulfill any such condition under this contract. If the Seller does not so elect to adjourn the Closing, or if at the adjourned date the Seller is unable to convey title subject to and in accordance with the provisions of this contract, then either (i) Buyer may terminate this contract by written notice delivered at or prior to the date fixed for Closing as provided in 1.2(c) hereof, or the adjourned date, as the case may be, whereupon this contract shall terminate and neither party shall have any obligations of any nature to the other hereunder or by reason hereof, except that the provisions of 3.2(b), 10, 14, 18 and 22 hereof shall survive such termination and the Seller shall pay the amount paid under 2.1(a) to Buyer, or (ii) Buyer may elect, as permitted by 5.3 hereof, to take such title as the Seller is able to convey. The failure of Buyer to give the Seller notice of termination as provided in subdivision (i) above shall be deemed an electrion by Puyer to take such title as the Seller is able to convey, and, in such event, the Closing date shall be automatically adjourned for a period (or additional period, as the case may be) of fiteen (15) days. If the Seller elect to adjourn the Closing as provided above, this contract shall not

be deemed to require Seller to take or bring any action or proceeding or any other steps to remove any defects in or objection to title or to fulfill any such condition of the performance of this contract or to expend any moneys therefor, and, in the event Seller elects not to take any such steps, Buyer shall not have any right of action against Seller in law or in equity, for damages or specific performance.

5.3 Buyer at any time may accept such title as Seller can convey, without reduction of the purchase price or any credit or allowance on account thereof or any claim against Seller. The acceptance of the closing documents by Buyer shall be deemed to be full performance of, and discharge of, every agreement and obligation on the part of Seller to be performed hereunder as a condition precedent to Buyer's obligations.

5.4 Each party shall deliver to the other party or to Buyer's title insurance company such duly executed and acknowledged or verified certificates, affidavits and other documents respecting the power and authority to perform the obligations hereunder and as to the due authorization thereof by appropriate corporate, partnership or other proceeding and as to the authority of the officer, partner or other represen-

tatives acting for it at the Closing, as counsel for the other party or Buyer's title insurance company may reasonably request.

5.5 If the Premises shall, at the time of Closing be subject to any liens such as for judgments or transfer, inheritance, estate, franchise, license or other similar taxes or any encumbrances or other title exceptions which would be grounds for Buyer to reject title hereunder, the same shall not be deemed an objection to title provided that, at the time of Closing, Buyer's title insurer will issue or bind itself to issue a policy which will insure Buyer against collection thereof from or enforcement thereof against the Premises, (i) for a premium computed at regular rates, or (ii) for a premium in excess of the premium computed at regular rates, provided Seller shall pay the amount of such excess attributable to such insurance against collection from or enforcement against the Premises. If request is made within a reasonable time prior to the date of Closing, Buyer agrees to provide at the Closing separate certified or official bank checks, as requested, aggregating the amount of the cash to be paid to the Seller at the date, to facilitate the satisfaction of any of such liens or other defects, and the existence of any thereof shall not be deemed defects in or objections to title if Seller shall deliver at the Closing instruments, in recordable form, sufficient to satisfy the same, together with the cost of recording or filing thereof.

5.6 The expenses of the examination of title and a survey of the Premises shall not be liens on the Premises.

6. Casualty and Condemnation

6.1 The risk of any loss by fire or other casualty or by the taking of the Premises or any part thereof by eminent domain shall be assumed solely by Seller until Closing, provided, however, that in the event of damage to or destruction of not more than 5% of the Improvements or the taking of not more than 5% of the Premises, this contract shall remain in force, and, subject to the rights of the holder of the Mortgage, the Seller shall pay over to Buyer the amount of the insurance proceeds collected or condemnation award allowed to the extent not applied to the restoration or repair of the Premises or, if any proceeds or award has not been collected, Seller shall assign to Buyer all its right, title and interest in and to the same.

6.2 If more than 5% of the Improvements on the Premises shall be damaged by fire or other casualty and shall not be substantially restored or repaired by Closing, or if more

than 5% of the Premises shall be taken by eminent domain, then Buyer may, at its option, (i) terminate this contract with respect to the Premises so damaged or taken or (ii) elect to proceed as provided in 6.1 with respect to damage to not more than 5% of the Improvements or a taking of not more than 5% of those Premises. Upon termination pursuant to the preceding sentence, the obligations of each party to the other shall terminate except that the provisions of 3.2(b), 10, 14, 18 and 22 shall survive and Seller shall pay the amount paid under 2.1(a) to Buyer.

6.3 If any event described in 6 shall occur, the provisions of 6 shall control, and the Uniform Vendor and Purchaser Act or similar laws shall not be applicable.

7. Closing Documents

7.1 Seller shall deliver the following at Closing subject to and in accordance with this contract:

(a) A deed to the Premises, conveying Marketable Title to Buyer. The deed shall be a bargain and sale deed without covenant against grantors acts, or similar form, executed in form for recording and shall recite the full pur-

chase price. The Seller, at its option, may omit from the deed the recital of any or all of the Permitted Encumbrances, but the Premises shall nevertheless be deemed to have been transferred subject to the same and the provisions of this sentence shall survive delivery of the deed.

(b) The Real Estate Transfer Declaration as required by the Illinois Department of Revenue.

(c) An assignment, without representation, warranty or recourse of all right, title and interest of the Seller as licensor under the Digas License Agreement, together with such correspondence and other records, if any, pertaining to that agreement which Seller has available.

(d) A currently dated letter or certificate from the holder of the Mortgage with respect thereto, executed by a duly authorized officer thereof, stating that there have been no amendments or modifications thereof, the amount of the unpaid principal balance secured thereunder which shall not exceed the sum of $203,358.43, the date of maturity thereof, the last date to which interest thereunder shll have been paid, the amount of any deposits being held by such holder thereunder, and the items comprising such deposits

and to the best knowledge of such holder, such mortgage is not in default and no event or condition has occurred which with notice or lapse of time or both would constitute such a default.

The letter or certificate of the holder of the mortgage shall consent to the termination of the lease between Illinois Topps Realty Corp., Lessor and Topps of Chicago Heights, Inc., lessee and to the release of the guarantor of that lease and shall release the lessee and guarantor from all liabilities and claims arising out of the lease and guaranty thereof.

(f) All original documents and writings relating to the continuing ownership and operation of the Premises including certificates of occupancy.

7.2 Buyer shall deliver the following at Closing subject to and in accordance with this contract:

(a) The payments described in 2 and 3 of this contract.

(b) Assumptions of all of the licensor's obligations under the Digas License Agreement from and after the date of Closing, and agreements to indemnify and

hold harmless the Seller from all claims, losses, liabilities and expenses, including attorneys' fees, arising out of Buyer's failure to perform or comply with any such obligations.

8. Adjustments

At Closing, the following adjustments on the basis of a 12-month year - 30 day month shall be made between the parties.

8.1 Rents (including tax escalation) under the Digas License Agreement when, as and if collected, subject to the following:

The payments collected on account of the fixed rent shall be successively applied to the payment of (1) rents due and payable in the month in which the Closing occurs, (2) rents due and payable in the months succeeding the month in which the Closing occurs, up to and including the month in which payment is made, and (3) rents due and payable in the months preceding the month in which the Closing occurs, if any. Percentage lease rents shall be adjusted as of the Closing on the basis of the fiscal period under the percentage rental provision in the Digas License Agreement and shall be payable by Buyer when finally ascertained and received by Buyer. Rents

attributable to all tax and license fee payments shall be apportioned as of the closing of title, subject to the provisions in 8.4 and 8.5, and shall be applied to satisfy in full the payment obligations of the tenant in the order in which those obligations become payable. Buyer shall cause all bills for percentage rental, tax and license fee payments for the periods prior to and including the Closing to be promptly delivered. Seller may enforce collection of rents (including percentage rental and tax escalation payments) for periods prior to the Closing by appropriate judicial proceedings (other than summary proceedings) and Buyer shall cooperate in such collection but without cost to it.

8.2 Interest on the Mortgage.

8.3 Premiums on transferable insurance policies, or renewals, in effect or as extended at Closing.

8.4 Real estate taxes (and any special assessments, water and sewer taxes or other charges payable in the same manner as real estate taxes). If the Closing shall occur before the tax rate is fixed, apportionment of real estate taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. If the Closing shall occur before final bills for fiscal 1975 have been issued to Seller, apportionment of real estate taxes shall be upon the basis of the 1975 or latest prior tax rate applied to the latest assessed valuation as set forth in Exhibit 3.2.

8.5 Personal property taxes.

Except as herein expressly otherwise provided, the "Customs in Respect to Title Closings" adopted by the Real Estate Board of New York, Inc., shall apply to the above apportionments.

9. Representations; Condition of Property

9.1 Buyer acknowledges that:

(a) He is fully familiar and satisfied with the condition and repair of the Premises, the value, income, expenses and operation thereof and the uses which may be made of the Premises or any other matter with respect thereto, including, without limitation, the Digas License Agreement;

(b) He has inspected, or caused to be inspected, the Premises and has independently investigated, analyzed and appraised the value and the profitability thereof;

(c) Except as expressly set forth in this contract, neither Seller nor any agent or representative of Seller has made, and Seller is not liable for or bound in any manner by, any express or implied warranties, guarantees, promises, statement, inducements, representations or information pertaining to the Premises, or any part thereof, the

physical condition, income, expenses or operation thereof, the uses which can be made of the same or any other matter or thing with respect thereto, including, without limitation, any leases, and that without limiting the foregoing, except as expressly set forth in this contract, Seller is not liable for or bound by (and Buyer has not relied upon) any verbal or written statements, representations, real estate brokers' "set-ups" or any other information respecting the Premises furnished by the Seller or any broker, employee, agent, consultant or other person representing or purportedly representing the Seller.

(d) No responsibility has been assumed by Seller as to the condition or repair of the Premises or the value thereof or as to any other fact or condition which has or might affect the Premises or the condition, repair, value, expense of operation or income potentials thereof.

9.2 Buyer, by acceptance of the closing documents, shall accept the Premises in the condition in which they are at the time of the execution of this contract, ordinary wear and tear excepted.

10. Brokerage

The parties hereto represent that no broker has been involved with the negotiations of this contract and the purchase of the Premises pursuant hereto and that no broker is entitled to a commission in connection with this transaction.

11. Buyer's Default

In the event Buyer shall default in the performance of Buyer's obligations under this contract, Seller may retain all sums paid by Buyer under 2.1 as liquidated damages or have recourse to such rights, relief and remedies as may be available at law or in equity.

12. Assignments

No assignment hereof by Buyer shall be valid unless a duplicate original thereof containing an assumption by the assignee or assignees, in form satisfactory to the Seller, shall be delivered to the Seller. No assignment shall relieve Buyer from performance of the obligations undertaken by Buyer under this contract.

13. Notices

All notices, requests, consents and other communications required or permitted to be delivered hereunder shall be in writing and shall be delivered by Registered or Certified Mail, postage and registration or certification charges prepaid as follows:

To Buyer at:

Mr. John Hancock
3100 Bernice Road
Lansing, Illinois 60438

and, to the Seller or any member thereof at:

c/o Samuel W. Ingram, Jr., Esq.
Shea Gould Climenko Kramer & Casey
330 Madison Avenue
New York, New York 10017

Any party hereto may, from time to time, designate any other address to which such notice, request, consent or other communication addressed to it shall be sent. All such communications shall be effective on delivery.

14. Expenses

Whether or not the transactions contemplated under this contract are consummated, each party hereto shall pay his own expenses incident to the preparation and performance of this contract, including, without limitation, attorneys' fees.

15. Survival of Agreements

All covenants, agreements, representations and warranties made herein shall survive the execution and delivery of this contract and the consummation of the transactions contemplated herein.

16. Entire Agreement

This contract (including all schedules annexed hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings, if any, with respect thereto. This contract may not be modified, changed, supplemented or terminatedd, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by his agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

17. Waivers; Extensions

No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

18. No Recording

The parties each agree that neither this contract nor any memorandum or notice thereof shall be recorded.

19. Counterparts; Captions

This contract may be executed in counterparts, each of which shall be deemed an original. The captions are for convenience of reference only and shall not affect the construction to be given any of the provisions hereof.

20. Pronouns; Joint and Several Liability

All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the parties may require. If the Buyer consists of two or more parties, the liability of such parties shall be joint and several.

BEST COPY AVAILABLE

21. Claims

Whenever any party shall learn through the filing of a claim or the commencement of a proceeding or otherwise of the existence of any liability for which another party is or may be responsible under this contract, such party shall notify the other party promptly and furnish such copies of documents (and make originals thereof available) and such other information as such party may have which may be used or useful in the defense of such claims and shall afford said other party full opportunity to defend the same in the name of any party and shall generally cooperate with the other party in the defense of any such claim.

22. No Personal Liability of Trustees

It is expressly agreed that the obligations of Seller under or with respect to this contract do not constitute personal obligations of the Trustees or any of them and shall not involve any claim against, or liability on the part of, any of them and that Buyer will look solely to the assets of Illinois Topps Realty Corp. in respect of any claim under or with respect to this contract and will not seek recourse against the Trustees or any of them or any of their personal assets.

IN WITNESS WHEREOF, the parties have duly executed this contract as of the day and year first above written.

Joseph R. Crowley

Herbert B. Siegel

as Trustees of Illinois Topps Realty Corp. a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York under File Nos. 74B614-802, inclusive, and not individually.

John Hancock

Schedule 1.2(b)

That part of Lot 'B' in North side division being a Subdivision of the South 700 feet of the North 740 feet of that part of the South half of Section 17, Township 35 North, Range 14 East of the Third Principal Meridian lying West of Westerly right of way line of Chicago Road (also known as Chicago Vincennes Road) and lying East of Easterly right of way of Dixie Highway. Beginning at a point 10 feet South of the North line of said Lot 'B' and 400 feet East of the North East corner of Lot 'A' in North Side Division of aforesaid East along a line 10 feet South of and parallel to North line of said Lot 'B' a distance of 596 feet thence South on a line perpendicular to last described line a distance of 490 feet thence West on a line parallel with North line of said Lot 'B' a distance of 596 feet to a point 400 feet East of East line of said Lot 'A' extended South thence North to point of beginning, in Cook County, Illinois.

Personal Property

Any conveyors, accessories and spare parts for same located on the premises at 160 JOE ORR ROAD, CHICAGO HEIGHTS, ILLINOIS, together with all heating, plumbing and electrical appliances, if any, located thereon, without warranty or representation, express or implied.

LAW OFFICES
SOL I. DVORKIN
MAX EARL SHERMAN

SUITE 2310
100 NORTH LA SALLE STREET
CHICAGO, ILLINOIS 60602
FRANKLIN 2-1407

RECEIVED
MAR 11 1976
TAX DEPT.

March 9, 1976

Mr. N. J. Loizzi
Interstate Stores
Tax Department
111 Eighth Avenue
New York City, New York 10011

RE: 1975 Quadrennial Assessment
160 Joe Orr Road, Chicago Heights, Ill.

Dear Nick:

Pursuant to the order of bankruptcy court on December 11, 1975, we proceeded with a complaint before the Cook County Board of Appeals relative to the tax assessment for 1975 on your Store No. 88 in Chicago Heights, Illinois.

The assessment for 1975 was $490,054.00. As a result of a hearing on the complaint, a reduction was obtained in the assessed valuation as indicated below, and I am enclosing herewith an official notice of the Board of Appeals of the reduction.

	Original	Revised	Decrease
Assessment	490,054	272,003	218,051

Applying the present equalization factor of 1.4453 and the tax rate of $9.121 per $100.00 of assessed valuation, results in a tax savings of $28,744.74 for each of the years 1975, 1976, 1977 and 1978.

In January you received a first installment bill which was predicated on the old 1974 assessed valuation. As I indicated by my letter of January 29, 1976, this was an estimate

EXHIBIT 3.2

March 9, 1976

Mr. N. J. Loizzi
Interstate Stores
Tax Department

RE: 1975 Quadrennial Assessment
160 Joe Orr Road, Chicago Heights, Ill.

to enable the County Treasurer to obtain money in advance against the total 1975 bill. The second installment would have been based upon the assessment of $490,054.00 if a complaint had not been filed. As it now stands, you will receive a bill for the second installment based upon the revised assessment of $272,003.00 and you will receive credit for the amount paid on the first installment against the total taxes for 1975, based upon the revised assessment.

I am enclosing herewith a statement setting forth the fees due, pursuant to the order of bankruptcy court confirming our arrangement. I have, however, indicated that this fee should be spread over the four years of the quadrennial. The purpose in doing this is because there is a potential that the Assessor may change the assessment in any one of the quadrennial years. Therefore, we will continue to follow this matter and to make the appropriate complaints and take the appropriate action, and revise the statement of fees whenever and if ever such action becomes necessary.

Yours very truly,

Max Earl Sherman

MES:ck
Enclosure

cc: Joel I. Papernik

LAW OFFICES

MAX EARL SHERMAN & SOL I. DVORKIN

100 NORTH LA SALLE STREET

CHICAGO, ILLINOIS 60602

FRANKLIN 2-1487

March 9, 1976

terstate Department Stores
linois Topps Realty Corp.
1 Eighth Avenue
w York City, New York 10011

or Professional Services Rendered

RE: Proceedings before Board of Tax Appeals with reference to the 1975 Quadrennial Assessment for the period 1975, 1976, 1977 and 1978 for the property located at 160 Joe Orr Road in Chicago Heights, Illinois.

Volume 13, Perm. Index No. 32-17-302-025

Fees based upon 25% of tax savings for each of said years (1975, 1976, 1977 & 1978) $28,744.74

Said fees payable as follows:

Due presently	$7,186.19
Due March 1, '77	7,186.19
Due March 1, '78	7,186.18
Due March 1, '79	7,186.18

"A lawyers time and advice are his stock in trade"
- Lincoln -

HARRY H. SEMROW
Commissioner

SEYMOUR ZABAN
Commissioner

HARRY H. SEMROW
COMMISSIONER

SEYMOUR ZABAN
COMMISSIONER

BOARD OF APPEALS OF COOK COUNTY
ROOM 601 COUNTY BUILDING
TELEPHONE 443-5542
CHICAGO, ILLINOIS 60602

RECEIVED
MAR 11 1976
TAX DEPT.

NOTICE OF REDUCTION IN ASSESSED VALUATION

Complaint No. 17246

Vol. 13 Permanent Index No. 32-17-302-025

Dear Complainant:

Harry H. Semrow and Seymour Zaban, Commissioners of the Board of Appeals of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce your assessed valuation as follows:

Assessor's 1975 Assessed Valuation 490054 Reduced 1975 Assessed Valuation 272003

The corrected Assessed Valuation will be equalized by the Illinois Department of Local Government Affairs, as provided by law.

Very truly yours,

HARRY H. SEMROW
Commissioner

SEYMOUR ZABAN
Commissioner

HARRY H. SEMROW
MEMBER

SEYMOUR ZABAN
MEMBER

BOARD OF APPEALS OF COOK COUNTY

ROOM 601, COUNTY BUILDING
TELEPHONE 443-5542
CHICAGO, ILLINOIS 60602

NOTICE OF REDUCTION IN ASSESSED VALUATION

Complaint No. 17246

Vol. 13 Permanent Index No. 32-17-302-025

Dear Complainant:

Harry H. Semrow and Seymour Zaban, Members of the Board of Appeals of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce your assessed valuation as follows:

Assessor's 1975 Assessed Valuation $90,054 Reduced 1975 Assessed Valuation 272,003

The corrected Assessed Valuation will be equalized by the Illinois Department of Local Government Affairs, as provided by law.

Very truly yours,

HARRY H. SEMROW
MEMBER

SEYMOUR ZABAN
MEMBER

B.A. NOTICE #RE.42-3

Dominick's Designation of Record on Appeal
Dated 6/21/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of	:	
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	DESIGNATION OF ADDITIONAL PAPERS TO BE INCLUDED IN RECORD
Debtors.	:	No. 74 B 614-802 (JMC)

The appellee, Dominick's Finer Foods, Inc., by its attorneys Golenbock and Barell, hereby designates the following additional papers for inclusion in the record on appeal:

1. Exhibit to Order dated May 24, 1976, said exhibit being the executed Contract of Sale, dated May 17, 1976, between Dominick's Finer Foods, Inc. as purchaser, and Joseph R. Crowley and Herbert B. Siegel, as trustees of Illinois Topps Realty Corp., as Seller.

2. Notice of Settlement, dated May 18, 1976, of Order from which appellant John E. Hancock appeals.

3. All papers submitted and to be submitted on the application of appellant John E. Hancock, returnable June 28, 1976, for a temporary restraining order; for an order vacating the order appealed from; and for an order renoticing the sale of the real property which is the subject of the appeal.

Dated: New York, New York
June 21, 1976

GOLENBOCK AND BARELL

By _____
Arthur G. Silverman
A Member of the Firm
Attorneys for Appellee
Dominick's Finer Foods, Inc.

Received
6/21/76
5:05 pm

To: HONORABLE JOHN M. CANNELLA
United States District Judge
United States Courthouse
Foley Square
New York, New York 10007

SECURITIES AND EXCHANGE COMMISSION
26 Federal Plaza
New York, New York 10007

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY
1295 State Street
Springfield, Mass. 01111
Attn: Warren R. Wise, Esq.

KRAUSE, HIRSCH & GROSS
Attorneys for John E. Hancock
41 East 42nd Street
New York, New York 10016

SEYMOUR FAGAN, ESQ.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, California 90210

SHEA GOULD CLIMENKO KRAMER & CASEY
Attorneys for Trustees
330 Madison Avenue
New York, New York 10017

ROGERS HOGE & HILLS*
Attorneys for AMF Incorporated
90 Park Avenue
New York, New York 10016

* Service of these papers upon the attorneys for AMF Incorporated is without prejudice to the position of appellee Dominick's Finer Foods, Inc. that AMF Incorporated has no standing to be heard on this appeal.

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

Ronald Lewitt , being duly sworn, deposes and says: I am not a party to the action, am over eighteen years of age, and am employed by Golenbock and Barell,

~~under penalty of perjury, states: I am an attorney at law admitted to practice in the State of New York and am associated with Golenbock and Barell,~~

attorneys of record for [illegible] herein.

On [illegible], I served the within

upon [illegible]

attorney(s) for in this action, at

and upon [illegible]

the address(es) designated by said attorney(s) for that purpose,
by depositing (a) true cop(y)(ies) of same enclosed in (a) postpaid properly addressed wrapper(s) in a (~~post office~~) (an official depository) under the exclusive care and custody of the United States post office department within the State of New York.

Dated: June 21, 19[illegible]

~~(Attorney At Law)~~ (Employee)

Sworn to before me, this
21 day of June, 19[illegible].

THERESE M. POWELL
Notary Public, State of New York
No. 31-3147275
Qualified in New York County
Commission Expires March 30, 1977

Notice of Motion of AMF Incorporated Dated 6/21/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re	REORGANIZATION
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	Nos. 74 B. 614-802 Inclusive
Debtors.	NOTICE OF MOTION

S I R S:

PLEASE TAKE NOTICE that upon the order to show cause herein dated June 10, 1976, and the application of KRAUSE, HIRSCH & GROSS, and the affidavit of John E. Hancock sworn to the 4th day of June, 1976, annexed thereto, and upon the Brief in Support of Motion to Set Aside Order of Sale served and filed herewith on behalf of AMF Incorporated, a creditor herein, the undersigned will, on the 28th day of June at 10:30 o'clock in the forenoon, or as soon thereafter as counsel can be heard, at Room 236, United States Courthouse, Foley Square, New York, New York, before Hon. Edward J. Ryan, Bankruptcy Judge, join in the motion of John E. Hancock for an order setting aside the order dated May 17, 1976, confirming the sale of certain property of the debtors herein to Dominick's Finest Foods Inc., on the ground that the Notice of said sale did not comply with Bankruptcy Rule 10-209(b), together with such other and further relief as this Court may deem just and proper under the circumstances.

Dated: New York, New York
June 21, 1976

Yours, etc.

ROGERS HOGE & HILLS
Attorneys for AMF Incorporated

by Frank H. Gallo
A member of the firm
90 Park Avenue
New York, New York 10016
(212) 953-0200

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Affidavit of Gilbert E. Rotkin, Esq. Dated 6/21/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re	
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	REORGANIZATION
Debtors.	Nos. 74 B 614-802 Inclusive
	AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

GILBERT E. ROTKIN, being duly sworn, deposes and says:

1. I am an associate in the firm of Shea Gould Climenko Kramer & Casey, attorneys for the Trustees herein and make this affidavit in connection with the application of John E. Hancock to vacate the May 24, 1976 order of this Court authorizing the sale of property in Chicago Heights, Illinois to Dominick's Finer Foods, Inc.

2. The hearing on this Court's approval of the aforementioned sale was held on Monday, May 17, 1976. No later than Wednesday, May 12, I spoke on the phone with John Kaveny, Esq., attorney for Mr. Hancock, and told him that another party (Dominick's) had expressed an interest in purchasing the property and that they might come into court and that Hancock might lose the property if a higher bid was made. Kaveny said to me, in effect, that if the other party bid so much as one dollar more then they (Hancock) would withdraw. I responded that the contract was binding on Hancock as well as on the Trustees, subject to court approval. Again on Friday, May 14, Kaveny repeated that

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his client would withdraw if there was a one dollar higher offer and this was repeated again in the presence of Lester Yassky immediately before the hearing on the morning of May 17.

Gilbert E. Rotkin

Gilbert E. Rotkin

Sworn to before me this
21st day of June, 1976

Notary Public

PETER D. STERGIOS
Notary Public, State of New York
No. 4521707
Qualified in New York County
Commission Expires March 30, 1978

Affidavit of Jeffrey Finkel Dated 6/21/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re	
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	REORGANIZATION
Debtors.	Nos. 74 B 614-802 Inclusive
	AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

JEFFREY FINKEL, being duly sworn, deposes and says:

1. I am the Director of Real Estate of Interstate Stores, Inc. and make this affidavit in connection with the application of John E. Hancock to vacate the May 24, 1976 order of this Court authorizing the sale of property in Chicago Heights, Illinois to Dominick's Finer Foods, Inc.

2. The hearing on this Court's approval of such sale was held on Monday, May 17, 1976. On Tuesday, May 11, I spoke on the phone with Mr. Hancock and advised him that another party was interested in purchasing the property and that if a higher bid was offered he could lose the property. I suggested that his attorney appear in Court if he wanted to bid or even authorize our attorney to bid on his behalf. He said that he would have his attorney take care of it. I advised him that Gil Rotkin of Shea Gould Climenko Kramer & Casey would call his attorney and advise him of this development. I am advised that Mr. Rotkin did so on that day or the next.

3. During the course of negotiations with Mr. Hancock during the prior months, I advised him that court approval was necessary, but that I did not believe court approval would be a problem unless some one else bid a higher price.

Jeffrey Finkel

Sworn to before me this
31 day of June, 1976

Notary Public

JAMES W. HALL
NOTARY PUBLIC, State of New York
No. 52-6734350
Qualified in Suffolk County
Commission Expires March 30, 19.75

Affidavit of Sam W. Galowitz, Esq. Dated 6/24/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of	:	
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	AFFIDAVIT IN OPPOSITION TO APPLICATION TO REOPEN BIDDING
Debtors.	:	No. 74 B 614-802 (JMC)

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

SAM W. GALOWITZ, being duly sworn, deposes and says:

1. I am a Member of the firm of Golenbock and Barell, attorneys for Dominick's Finer Foods, Inc. ("Dominick's") which is the Court approved contract vendee of real property located at 160 Joe Orr Road, Chicago Heights, Illinois. (Said realty is hereinafter referred to as the "Property"). I submit this affidavit in opposition to the application of one John E. Hancock, an unsuccessful suitor for the Property. Hancock seeks, among other things, to set aside the May 24 order of this Court authorizing the consummation of the sale of the Property by Joseph R. Crowley and Herbert B. Siegel, as Trustees of Illinois Topps Realty Corp. to Dominick's. The sale, and the terms thereof, had been previously approved by this Court at open hearing on May 17, 1976. The contract itself, entered into on that day pursuant to the Court approval, is annexed hereto as Exhibit "A".

2. The principal argument made by the applicant is that at the May 17 hearing, he was completely unprepared for the possibility of a competitive bid, had not been apprised

of such possibility, was surprised that the Court would entertain a higher bid, and recovered from the shock of the court proceedings only after returning to Chicago from New York. The facts do not support the argument. These facts are as follows:

a. After negotiations, Hancock entered into a written "contract" with the Trustees of Illinois Topps Realty Corp. to acquire the Property. The "contract" was expressly and by law subject to approval of the Bankruptcy Court.

b. On May 11, six days before the hearing noticed to ascertain whether Bankruptcy Court approval should be granted, Jeffrey Finkel, the Director of Real Estate for Interstate Stores, spoke to Hancock and apprised him "that another party was interested in purchasing the property and that if a higher bid was offered he could lose the property." (Finkel aff., Para. 2).

c. Not later than the next day, May 12, an attorney with the law firm representing the Trustees in these Chapter X proceedings spoke to Hancock's lawyer, John Kaveny, Esq., and repeated the prior advice of Finkel to Hancock. Gilbert Rotkin, Esq. has sworn that:

> "...[I] told him [Kaveny] that another party (Dominick's) had expressed an interest in purchasing the property and that they might come into court and that Hancock might lose the property if a higher bid was made."

Kaveny responded that if Dominick's outbid Hancock, Hancock would not bid a penny more and would withdraw.

d. Thus advised by both Rotkin and Finkel, Hancock

flew to New York with his Chicago lawyer to participate in the May 17 court hearing. Also in the courtroom were duly authorized officers of Dominick's, a subsidiary of a major supermarket chain of 205 stores with sales of $1.5 billion and net income of $12.5 million as reported in the most recent annual audited statements. (Transcript, p. 7). The Court was apprised of Dominick's presence, and was further informed that Dominick's was prepared to purchase the Property on terms essentially the same as those in the Hancock "contract", except that Dominick's was willing to pay $25,000 more.

e. Hancock's counsel then entered his appearance and made the following statement (Transcript, p. 8):

> "I am the attorney for Mr. Hancock, who is here with me this morning. We have no further comment except that we have our offer. The Trustee has it signed. We don't wish to raise our offer at this time, your Honor."

It must be emphasized that the attorney did not object to Dominick's bid, did not object to the Court's entertainment of the bid, and had remained silent when, at the very outset of the hearing, the Court inquired as to whether "any other person wish[es] to make an offer to purchase ... the property ... ." (Transcript, p. 6).

f. Notwithstanding Hancock's silence, the Court gave him the opportunity to meet the Dominick offer and extended the opportunity to take "15 minutes or a half an hour to give it full consideration." (Transcript, p. 10). Hancock flatly declined:

> HANCOCK ATTORNEY: "If Mr. Yassky [Trustees' attorney] feels it's the same good faith offer ... then it is simply $25,000 more than what we offered."
>
> THE COURT: "You are not prepared to undertake to top the $25,000 offer, sir?"
>
> HANCOCK ATTORNEY: "Not at this time."

Again, Hancock did nothing to object to the bid of Dominick's or to the entertainment thereof.

g. A third opportunity was given to Hancock when the Court suggested that there be "five or ten minutes for the dust to settle" (Transcript, p. 11), but Hancock again declined. The Court asked whether other interested parties wished to be heard. There was no response. (Transcript, p. 11). After a page or so of colloquy (page 12), the Court was about to let the hammer fall when Hancock entered into bidding and offered to meet Dominick's offer of $675,000. Dominick's responded by raising its offer another $10,000 to $685,000. (Transcript, p. 13).

h. Hancock, apparently angered by Dominick's increased bid, rose to be heard and himself stated on the record:

"This is fun and games."

Neither Hancock nor his lawyer made any request for an adjournment of the hearing to reconsider his position. He gave no indication whatever that he was of a mind to increase his offer. Rather, Hancock's lawyer then withdrew the $675,000 bid made by his client. (Transcript, p. 13).

i. The hearing was concluded, and the Court authorized the Trustees to enter into the contract with Dominick's for $685,000; i.e., $35,000 more than what Hancock had agreed to pay in the "contract" between him and the Trustees.

j. Dominick's officers and the attorneys for the Trustees immediately proceeded to the offices of said attorneys; the contract approved by the Court was drawn up; Dominick's

made a down payment of close to $50,000; and the contract was duly executed.

k. Late that night, at 10:53 P.M., New York Time, Hanover sent a night telegram to the Trustees' attorneys and to the Court seeking to increase his bid to $725,000, and to have the Court set aside the earlier order of that day approving the sale to Dominick's. The informal application was denied and on May 24 the Court ordered the Trustees to consummate the sale. At the Trustees' request, the closing has been adjourned to June 29, 1976.

3. The facts clearly compel denial of Hancock's application, as does the law. As far as the facts are concerned, Hancock and his attorney were given ample notice of the likelihood of a higher offer being made at the May 17 hearing, and of the consequences of a higher offer. Though Hancock claims he did not learn of this until immediately prior to the hearing, a reading of his affidavit leaves much to be desired. Consider, for example, the rather incredible statement that the reason why both he and his lawyer -- two persons -- travelled from Chicago to New York to attend the hearing, was solely to enable Hancock to "hand-carry" a copy of a Court order back to Chicago (Hancock aff., Para. 7). The denial by Hancock of prior knowledge of possible competitive bidding is completely refuted by two disinterested witnesses -- one, an attorney for the Trustees, and the other, the Director of Real Estate for the Debtors. There are numerous other statements in the Hancock affidavit too tailored for credence. The transcript speaks for itself in evidencing Hancock's waiver of any objections to the hearing and Hancock's participation in the bidding.

4. As for the law, it is clear that Hancock's position, if adopted, would make a mockery of orderly Bankruptcy Court procedures for the sale of property or for the approval of a proposed sale of property. In the latter situation, it is not at all uncommon for a third party to appear at a hearing noticed to consider the question of whether the Court should approve a sale of estate assets, and to assert as a reason for non-approval the willingness of the third party to purchase the assets for a higher price. A prospective purchaser of estate assets takes the risk that such third parties may appear, and accordingly the prospective purchaser must always be prepared to cope with that risk. Orderly court procedures require that the order of the Court entered at such hearings be final. To cite just one example: Can one imagine the chaos which would have eventuated in the recent W. T. Grant Company auction in this Court of hundreds of leasehold estates if, "after the hammer fell", disc untled bidders sent telegrams seeking to reopen the bidding and if those belated bids were honored? The nub of the matter is that considerations of sound administration of a court of bankruptcy compel that bids, once accepted, be final, and that a transaction, once approved, not be reopened except under the most unusual circumstances, such as those tantamount to a fraud upon the Court. Hancock's arguments simply have no merit.

5. I now turn to the equally meritless suggestion in the application that inadequate notice was given to creditors (See Hancock affidavit, Para. 21), a position boldly asserted by Hancock and by a third party creditor on an appeal that has been taken from this Court's order of May 24, 1976 -- i.e.,

the very order attacked by the instant application. The claim is pure nonsense. This Court which has entered over 340 orders in these complex reorganization proceedings, and is fully familiar with their magnitude, has surely taken notice of the facts that:

a) These proceedings involve 189 debtors;

b) There are approximately 9,000 creditors who have asserted aggregate claims of over $285 million;

c) Assets of the debtors have been continuously liquidated in numerous sales and transactions over the two years since the Debtors filed their Chapter X petitions;

d) Land and buildings held for sale as of December, 1975 were carried at $20 million; and as of May 2, 1975 were carried at about $8.9 million.

e) The $685,000 price bid by Dominick's for the Property represented an amount equal to only 0.4% of the total assets of the Debtors on May 2, 1976.

These facts appear in the Trustee's comprehensive Report to the District Court, to the Bankruptcy Judge and to all Creditors, dated December 15, 1975 and which is annexed hereto as Exhibit "B", and in the financial report filed with the Court on June 4, 1976 for the period ending May 2, 1976.

6. It would be grotesquely burdensome under the aforesaid circumstances, to require that notice of the sale of but one empty store be given to 9,000 creditors. The short of the matter is that good cause for not giving such notice

existed, the Court was knowledgable as to the facts, and it was more than enough that notice be given to all directly interested parties. It was out of excess caution that the Trustees also gave notice to all persons who had filed appearances under Section 206 of the Bankruptcy Act.

7. Under the circumstances, the applicant has completely failed to advance a single bona fide reason for disturbing the May 24 order of this Court. Dominick's respectfully requests that all relief requested by Hancock be denied and that the closing set for June 29 go forward as scheduled and without further interference.

SAM W. GALOWITZ

Sworn to before me this

24 day of June, 1976.

Notary Public

SILVIA STERNBERG
Notary Public, State of New York
No. 41-3829320 Queens County
Term Expires March 30, 1977

EXHIBIT A

AGREEMENT made this 17th day of May, 1976 by and between JOSEPH R. CROWLEY and HERBERT B. SIEGEL, as Trustees of Illinois Topps Realty Corp, a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York under File Nos. 74B614-802, inclusive, and not individually ("Seller") and Dominick's Finer Foods, Inc., an Illinois corporation ("Buyer").

W I T N E S S E T H :

1. Sale, Definitions

1.1 Seller agrees to sell, assign, convey and transfer to Buyer and Buyer agrees to purchase from Seller the real property described in Schedule 1.2(b) for the price and on the terms hereafter stated.

1.2 For purposes of this contract, unless the context shall otherwise indicate, the terms set forth below shall be defined as follows:

(a) The words "District Court" shall mean the United States District Court of the Southern District of New York.

(b) The words "Premises" shall mean the land described in Schedule 1.2b attached hereto, and the Improvements located thereon.

(c) The word "Closing" shall mean the consummation of the transactions referred to in this contract which shall occur on a day designated by Seller or its counsel, Shea Gould Climenko Kramer & Casey, in a notice to Buyer given concurrently with delivery of a copy of the Final Order which date shall not be earlier than the 10th day (unless an earlier date shall be agreed to in writing by the parties) nor later than the 30th day (unless a later date shall be agreed to in writing by the parties) following the date of ~~entry~~ delivery to Buyer of a copy of such order (or if such 30th day is a Saturday, Sunday or holiday, the following business day) at 10:00 A.M. at the office of Chicago Title and Trust Company, 111 West Washington Street, Chicago, Illinois, but unless extended by the parties, in no event shall the closing occur after August 1, 1976.

(d) The word "Buyer" shall include an assignee as provided in 12.

(e) The words "Final Order" shall mean an Order issued by the District Court having jurisdiction over the proceedings for the reorganization of the Seller (nos. 74B614-802, inclusive) after notice by the means and to the parties designated by the District Court and a public hearing before the District Court and with respect to which the time to appeal or further to appeal has expired and which grants to Seller the

legal authority to enter into and to observe, fulfill and perform all of the terms and conditions of this contract and the Option Agreement.

(f) The word "Improvements" shall mean the buildings, structures and other facilities on the Premises, together with all right, title and interest of the Seller in the fixtures installed and used in connection with the operation of the building and structures on the Premises and the personal property described in Schedule 1.2f.

(g) The word "Seller" shall include Messrs. Crowley and Siegel as Trustees of the corporations in proceedings for reorganization of Corporations bearing File Numbers 74B614-802 in the District Court, as well as where the context so requires, those corporations.

(h) The words "Marketable Title" shall mean good and marketable title to the Premises free and clear of all liens, encumbrances, agreements, restructions and burdens, except for Permitted Encumbrances.

(i) The words "Digas License Agreement" shall mean the license agreement dated July 17, 1973 between Topps of Chicago Heights, Inc., as Licensor and Digas Company of Delaware, as Licensee.

(j) The words "Escrow Agreement" shall mean the Escrow Agreement dated , 1976 among Seller, Buyer and Chicago Title and Trust Company as Escrow Agent ("Escrow Agent"). A copy of the Escrow Agreement is attached hereto and marked Exhibit 1.2j.

(k) The word "Mortgage" shall mean the mortgage dated November 1, 1961 from Bonobest Development Corporation to the Massachusetts Mutual Life Insurance Company and recorded as document 18363477 in the Office of the Recorder, Cook County, Illinois and on which there is $192,695.05 outstanding on March 1, 1976, together with accrued interest.

(l) The term "Collateral Security Documents" shall mean assignments of rent, security agreements, financing statements or other documents granting additional security or powers to the holder of the Mortgage.

(m) The term "Permitted Encumbrances" shall mean the matters, exceptions and state of facts affecting title to the Premises, as listed below:

(1) All liens for fiscal 1975 or the current or future fiscal periods for unpaid real estate and personal property taxes, vault charges, assessments, water and sewer charges and rents, subject to adjustment under 8.4 and 8.5.

(2) All violations of law or governmental ordinances, orders or requirements, noted or issued by any govern-

mental office, department or authority having jurisdiction ("governmental authorities"), but which as of the date hereof were not noted or issued by any governmental authority.

(3) All present and future zoning and building laws, ordinances, codes, restrictions and regulations of all governmental authorities and zoning variances and special exceptions, if any, and all present or future violations thereof.

(4) Any state of facts (including but not limited to changes in the line or the alignment of any street) a current survey of the Premises, or a physical inspection thereof, would disclose, including, without limitation, all encroachments and projections of the Improvements upon or over streets or adjacent premises and all encroachments and projections on or over the Premises.

(5) Consents by any present or former owner of any of the Assets or any part thereof for the erection or maintenance of any structure or structures on, under or over any abutting street or streets.

(6) All rights, easements and agreements, whether or not of record, for the erection and/or maintenance of water, gas, electric, telephone, sewer or other utility pipe lines, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the Premises.

(7) Possible lack of or revocable nature of the right, if any, to maintain or use any space, facilities or appurtenances outside the boundaries of a property or the building lines, whether on, over or under the ground, including, without limitation, all vaults, marquees, signs and sidewalk openings.

(8) Possible easements over or failure of title to that part, if any, of any property lying in or under the bed of any street, road or highway, open or proposed, on, in from of or adjoining the premises as such street, road or highway is presently or was formerly laid out, or is shown on any filed map.

(9) The Mortgage.

(10) The D.gas License Agreement.

(11) Covenants and restrictions in deed dated April 28, 1961 and recorded May 3, 1961 as document 18152214 that premises in question should not be used for a retail super market grocery business provided this prohibition shall not apply to a department store with food department nor a delicatessen not excess of 10,000 square feet.

(12) Easement for telephone and electric service, together with right of access to the Premises as created

by Grant to Commonwealth Edison Company and the Illinois Bell Telephone Company recorded August 17, 1961 as document 18250078.

(13) Easement for a sanitary sewer over the North 15 feet of the South 60 feet as shown on the plat dated April 1, 1960 known as C 1337 and plat dated May 11, 1961 known as D 852 of the Mulford Engineering Service of Chicago Heights, and referred to in agreement between Chicago Title and Trust Company as trust No. 35881 to Bonobest Development Corporation dated August 10, 1961 and recorded August 22, 1961 as document 18254389.

(14) Easement for an 8 inch sanitary sewer line dated December 1, 1961 and recorded February 23, 1962 as document 18408598 made by Bonobest Development Corporation to the Kroger Company.

(15) Easement for telephone and electric service, together with right of access to the Premises as created by Grant to Commonwealth Edison Company and Illinois Bell Telephone Company recorded September 13, 1962 as document 18589611.

(16) Party walls on East and West lines of the Premises.

(17) Agreement dated April 15, 1971 between Seller and The Kroger Co, as amended by letter dated May 20, 1971.

2. Purchase Price

2.1 The purchase price for the Premises is $685,000.00 to be paid as follows:

(a) $49,230.00 by check, subject to collection, on the signing of this contract.

(b) $443,074.95 at Closing in cash;

(c) $192,695.05 by taking subject to but in no way assuming the Mortgage provided, however, that if any principal payments, including a prepayment in whole or in part of the Mortgage, be made by the Seller, those principal payments, together with all costs incurred in making those payments, including but not limited to all prepayment penalties, shall be added to the amount in (b) to be paid in cash.

2.2 All closing cash payments shall be made by certified or official bank check drawn on or by a New York Clearinghouse member bank and payable to Seller.

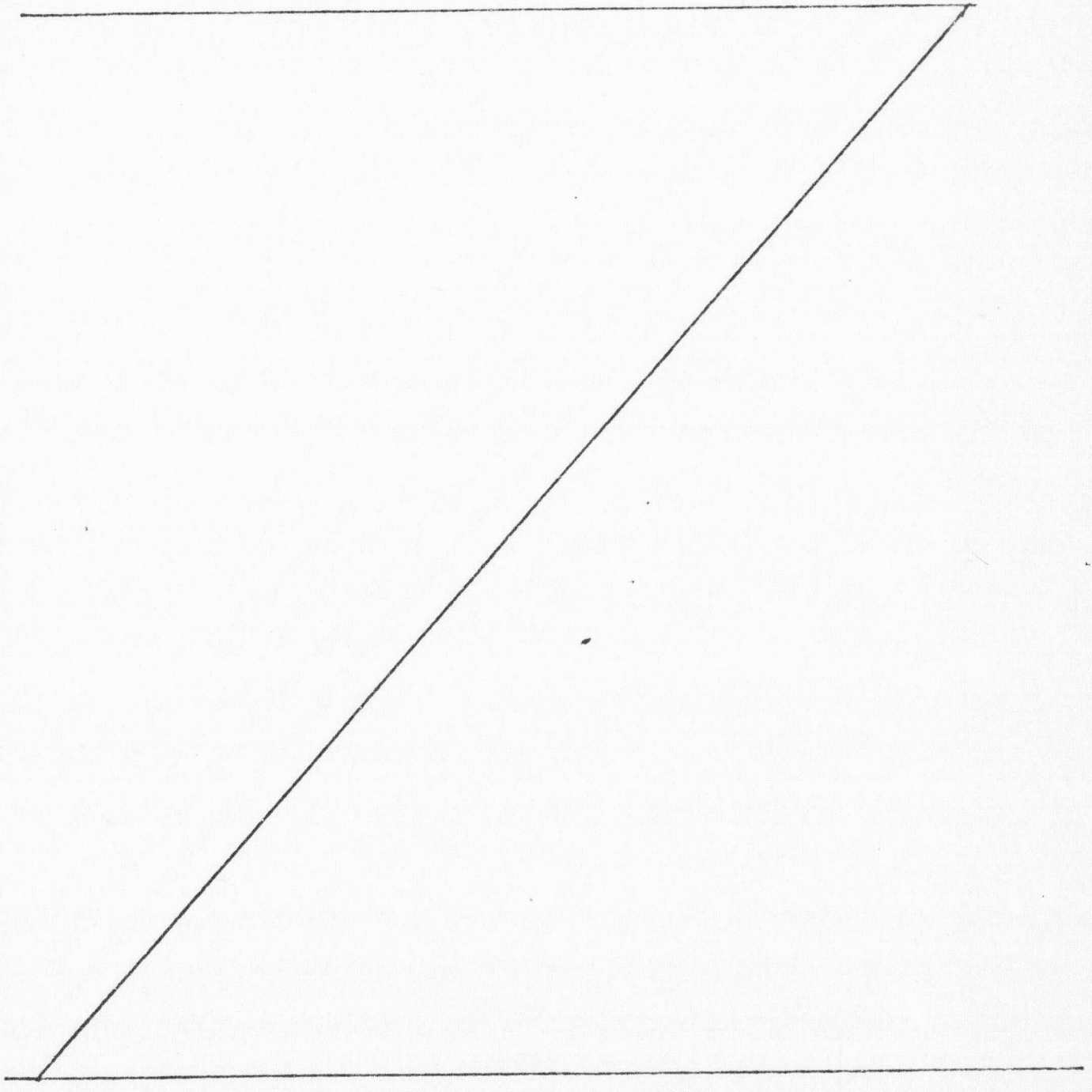
2.3 The closing cash payments (the "Escrow Fund") shall be paid to Shea Gould Climenko Kramer & Casey, Esqs. ("Escrow Agent") to be held in escrow for a period of seven (7) days following the date of Closing (the "Escrow Period"). At the end of the Escrow Period the Escrow Agent shall pay the Escrow Fund to Seller. If, however, Buyer shall notify Seller and the Escrow Agent by notice delivered before the end of the

Escrow Period that Buyer's title insurance company is not prepared to issue its insurance policy pursuant to 5.1 hereof because Seller is unable to convey to Buyer title to the Premises in accordance with and subject to this Agreement, the Escrow Agent shall pay the Escrow Fund to Buyer, subject to 5.2 of this Agreement.

The parties authorize the Escrow Agent, without creating any obligation on the part of the Escrow Agent, in the event ~~the~~ this Agreement or the Escrow Funds become involved in litigation, to deposit with the Clerk of the Court in which such litigation is pending the Escrow Funds and, thereupon, the Escrow Agent shall be fully relieved and discharged of any further responsibility hereunder. In addition, the Escrow Agent is hereby authorized, in the event it is threatened with litigation, to interplead all interested parties in any court of competent jurisdiction and to deposit with the Clerk of such Court the Escrow Funds and, thereupon, the Escrow Agent shall be fully relieved and discharged of any further responsibility hereunder.

The Escrow Agent shall not be liable for any mistake of fact or error of judgment or any acts or omissions of any kind unless caused by its wilfull misconduct or gross negligence. The Escrow Agent shall be entitled to rely on any instrument or signature believed by it to be genuine and may assume that any person purporting to give any writing, notice

or instruction in connection with this letter is duly authorized to do so by the party on whose behalf such writing, notice or instruction is given.



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3. Covenants

3.1 Buyer agrees, as follows:

(a) To pay all taxes, and charges in the nature of or in lieu of taxes, and filing and recording fees arising out of this contract or the Escrow Agreement, or the sale, assignment or transfer of the Premises, or the delivery, filing or recording of the deed, assignments of lease or other instruments of conveyance or transfer and to indemnify and hold the Seller harmless therefrom.

(b) Buyer agrees for a period of three years following the Closing to make available to the Seller for inspection and copying at reasonable times upon reasonable advance request all records of the Seller delivered to Buyer in connection with the Closing.

3.2 The parties agree, as follows:

(a) All certiorari proceedings pending on the Closing with respect to the Premises for the reduction of the tax assessment for years prior to the current fiscal tax year may, at the Seller's election, be continued by the Seller and the Seller shall have the right to make any settlement thereof without Buyer's approval and shall be entitled to retain all

savings and refunds obtained therefrom. Buyer acknowledges that proceedings before the Board of Appeals of Cook County have resulted in a reduction in the assessed valuation of the Property in accordance with the letter dated March 9, 1976 from Max Earl Sherman, Esq., 100 N. LaSalle Street, Chicago, Illinois ("Sherman"), a copy of which is attached hereto and marked Exhibit 3.2. The net amount of any reduction in the real estate taxes for the current fiscal tax year (and any prior tax year on account of which payments are made in the current year), whether by way of refund, credit or other savings, shall be apportioned between the Seller and Buyer, after the payment of attorneys' fees, experts' fees and other disbursements, in the same manner as provided in 8.4; provided however that Seller's liability for the legal fees and disbursements of Sherman shall not exceed, and Seller agrees to pay to Sherman, 25% of the tax savings received by Seller on account of the proceedings concluded by Sherman and Buyer agrees to pay and hereby indemnifies and holds Seller harmless against the balance of legal fees and disbursements payable to Sherman pursuant to Exhibit 3.2.

(b) Any dispute arising out of or in connection with this contract or the making hereof shall be submitted by the parties for resolution to the District Court. Buyer agrees he will not, and waives all right to, file a lis pendens in connection with any dispute hereunder. Following the Closing,

Buyer shall have no right of rescission for any representation, agreement or promise of the Seller surviving the Closing.

(c) Seller and Buyer shall use their best efforts to perform with reasonable dispatch the acts to be done by each of them to satisfy the conditions precedent to the Closing.

(d) At any time and from time to time after the Closing, each party hereto shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such additional instruments or documents and shall take or cause to be taken such further action as the party may reasonably request to evidence and effectuate the transactions contemplated under this contract.

4. Conditions Precedent

4.1 As conditions precedent to Buyer's obligation to purchase the Premises, and to perform its other obligations under this contract:

(a) The Final Order shall have been obtained.

(b) No event described in 5 or 6 which would permit Buyer to elect to terminate this contract shall have occurred.

(c) All of the documents to be delivered by the Seller pursuant to 7 shall be delivered.

(d) The licensee under the Digas License Agreement shall have waived its right, if any, to terminate the Digas License Agreement or require the licensor under that agreement to purchase any of the licensee's property by reason of the closing of the store operated by Topps of Chicago Heights, Inc. on the Premises or the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, provided that Buyer shall have agreed to the reasonable satisfaction of such licensee to recognize such licensee as his tenant.

4.2 As conditions precedent to Seller's obligation to transfer the Premises:

(a) The Final Order shall have been obtained.

(b) Buyer shall have duly tendered the payments and the instruments described in 2, 3 and 7.

(c) The licensee under the Digas License Agreement shall have waived its right, if any, to terminate the Digas License Agreement or require the licensor under that agreement to purchase any of the licensee's property by reason of the closing of the store operated by Topps of Chicago

Heights, Inc. on the Premises or the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, provided that Buyer shall have agreed to the reasonable satisfaction of such licensee to recognize such licensee as his tenant.

5. Title and Title Insurance

5.1 Buyer, at its sole cost, shall make application promptly after the date hereof to a title insurance company for its commitment to Buyer to issue upon the payment of its regular premium an ALTA Standard Form B, 1970 revision, title insurance policy insuring the Buyer's Marketable Title to Premises in the amount being paid therefor as specified in 2 of this contract, subject only to Permitted Encumbrances. Buyer shall notify the Seller as promptly as possible and in any event not later than five (5) days following the date of delivery to Buyer of the preliminary title report and prior to Closing of any exceptions, defects or objections which Buyer claims are not Permitted Encumbrances. Failure to give such notice shall not, however, constitute a waiver of any such exception, defect or objection.

5.2 If at Closing the Seller is unable to convey to Buyer title to the Premises subject to and in accordance with the provisions of this contract or is unable to fulfill any condition to Buyer's obligations under this contract, the Seller shall be entitled, upon written notice delivered to Buyer at or prior to the Closing, to reasonable adjournments of the Closing date one or more times, for not exceeding 60 days in

the aggregate, to enable the Seller to convey such title or fulfill any such condition under this contract. If the Seller does not so elect to adjourn the Closing, or if at the adjourned date the Seller is unable to convey title subject to and in accordance with the provisions of this contract, then either (i) Buyer may terminate this contract by written notice delivered at or prior to the date fixed for Closing as provided in 1.2(c) hereof, or the adjourned date, as the case may be, whereupon this contract shall terminate and neither party shall have any obligations of any nature to the other hereunder or by reason hereof, except that the provisions of 3.2(b), 10, 14, 18 and 22 hereof shall survive such termination and the Seller shall pay the amount paid under 2.1(a) to Buyer, or (ii) Buyer may elect, as permitted by 5.3 hereof, to take such title as the Seller is able to convey. The failure of Buyer to give the Seller notice of termination as provided in subdivision (i) above shall be deemed an electrion by Buyer to take such title as the Seller is able to convey, and, in such event, the Closing date shall be automatically adjourned for a period (or additional period, as the case may be) of fiteen (15) days. If the Seller elects to adjourn the Closing as provided above, this contract shall not

be deemed to require Seller to take or bring any action or proceeding or any other steps to remove any defects in or objection to title or to fulfill any such condition of the performance of this contract or to expend any moneys therefor, and, in the event Seller elects not to take any such steps, Buyer shall not have any right of action against Seller in law or in equity, for damages or specific performance.

5.3 Buyer at any time may accept such title as Seller can convey, without reduction of the purchase price or any credit or allowance on account thereof or any claim against Seller. The acceptance of the closing documents by Buyer shall be deemed to be full performance of, and discharge of, every agreement and obligation on the part of Seller to be performed hereunder as a condition precedent to Buyer's obligations.

5.4 Each party shall deliver to the other party or to Buyer's title insurance company such duly executed and acknowledged or verified certificates, affidavits and other documents respecting the power and authority to perform the obligations hereunder and as to the due authorization thereof by appropriate corporate, partnership or other proceeding and as to the authority of the officer, partner or other represen-

tatives acting for it at the Closing, as counsel for the other party or Buyer's title insurance company may reasonably request.

5.5 If the Premises shall, at the time of Closing be subject to any liens such as for judgments or transfer, inheritance, estate, franchise, license or other similar taxes or any encumbrances or other title exceptions which would be grounds for Buyer to reject title hereunder, the same shall not be deemed an objection to title provided that, at the time of Closing, Buyer's title insurer will issue or bind itself to issue a policy which will insure Buyer against collection thereof from or enforcement thereof against the Premises, (i) for a premium computed at regular rates, or (ii) for a premium in excess of the premium computed at regular rates, provided Seller shall pay the amount of such excess attributable to such insurance against collection from or enforcement against the Premises. If request is made within a reasonable time prior to the date of Closing, Buyer agrees to provide at the Closing separate certified or official bank checks, as requested, aggregating the amount of the cash to be paid to the Seller at the date, to facilitate the satisfaction of any of such liens or other defects, and the existence of any thereof shall not be deemed defects in or objections to title if Seller shall deliver at the Closing instruments, in recordable form, sufficient to satisfy the same, together with the cost of recording or filing thereof.

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5.6 The expenses of the examination of title and a survey of the Premises shall not be liens on the Premises.

6. Casualty and Condemnation

6.1 The risk of any loss by fire or other casualty or by the taking of the Premises or any part thereof by eminent domain shall be assumed solely by Seller until Closing, provided, however, that in the event of damage to or destruction of not more than 5% of the Improvements or the taking of not more than 5% of the Premises, this contract shall remain in force, and, subject to the rights of the holder of the Mortgage, the Seller shall pay over to Buyer the amount of the insurance proceeds collected or condemnation award allowed to the extent not applied to the restoration or repair of the Premises or, if any proceeds or award has not been collected, Seller shall assign to Buyer all its right, title and interest in and to the same.

6.2 If more than 5% of the Improvements on the Premises shall be damaged by fire or other casualty and shall not be substantially restored or repaired by Closing, or if more

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than 5% of the Premises shall be taken by eminent domain, then Buyer may, at its option, (i) terminate this contract with respect to the Premises so damaged or taken or (ii) elect to proceed as provided in 6.1 with respect to damage to not more than 5% of the Improvements or a taking of not more than 5% of those Premises. Upon termination pursuant to the preceding sentence, the obligations of each party to the other shall terminate except that the provisions of 3.2(b), 10, 14, 18 and 22 shall survive and Seller shall pay the amount paid under 2.1(a) to Buyer.

6.3 If any event described in 6 shall occur, the provisions of 6 shall control, and the Uniform Vendor and Purchaser Act or similar laws shall not be applicable.

7. Closing Documents

7.1 Seller shall deliver the following at Closing subject to and in accordance with this contract:

(a) A deed to the Premises, conveying Marketable Title to Buyer. The deed shall be a bargain and sale deed without covenant against grantors acts, or similar form, executed in form for recording and shall recite the full pur-

chase price. The Seller, at its option, may omit from the deed the recital of any or all of the Permitted Encumbrances, but the Premises shall nevertheless be deemed to have been transferred subject to the same and the provisions of this sentence shall survive delivery of the deed.

(b) The Real Estate Transfer Declaration as required by the Illinois Department of Revenue.

(c) An assignment, without representation, warranty or recourse of all right, title and interest of the Seller as licensor under the Digas License Agreement, together with such correspondence and other records, if any, pertaining to that agreement which Seller has available.

(d) A currently dated letter or certificate from the holder of the Mortgage with respect thereto, executed by a duly authorized officer thereof, stating that there have been no amendments or modifications thereof, the amount of the unpaid principal balance secured thereunder which shall not exceed the sum of $192,695.05 the date of maturity thereof, the last date to which interest thereunder shll have been paid, the amount of any deposits being held by such holder thereunder, and the items comprising such deposits

and to the best knowledge of such holder, such mortgage is not in default and no event or condition has occurred which with notice or lapse of time or both would constitute such a default.

The letter or certificate of the holder of the mortgage shall consent to the termination of the lease between Illinois Topps Realty Corp., Lessor and Topps of Chicago Heights, Inc., lessee and to the release of the guarantor of that lease and shall release the lessee and guarantor from all liabilities and claims arising out of the lease and guaranty thereof.

(f) All original documents and writings relating to the continuing ownership and operation of the Premises including certificates of occupancy.

7.2 Buyer shall deliver the following at Closing subject to and in accordance with this contract:

(a) The payments described in 2 and 3 of this contract.

(b) Assumptions of all of the licensor's obligations under the Digas License Agreement from and after the date of Closing, and agreements to indemnify and

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hold harmless the Seller from all claims, losses, liabilities and expenses, including attorneys' fees, arising out of Buyer's failure to perform or comply with any such obligations.

8. Adjustments

At Closing, the following adjustments on the basis of a 12-month year - 30 day month shall be made between the parties.

8.1 Rents (including tax escalation) under the Digas License Agreement when, as and if collected, subject to the following:

The payments collected on account of the fixed rent shall be successively applied to the payment of (1) rents due and payable in the month in which the Closing occurs, (2) rents due and payable in the months succeeding the month in which the Closing occurs, up to and including the month in which payment is made, and (3) rents due and payable in the months preceding the month in which the Closing occurs, if any. Percentage lease rents shall be adjusted as of the Closing on the basis of the fiscal period under the percentage rental provision in the Digas License Agreement and shall be payable by Buyer when finally ascertained and received by Buyer. Rents

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attributable to all tax and license fee payments shall be apportioned as of the closing of title, subject to the provisions in 8.4 and 8.5, and shall be applied to satisfy in full the payment obligations of the tenant in the order in which those obligations become payable. Buyer shall cause all bills for percentage rental, tax and license fee payments for the periods prior to and including the Closing to be promptly delivered. Seller may enforce collection of rents (including percentage rental and tax escalation payments) for periods prior to the Closing by appropriate judicial proceedings (other than summary proceedings) and Buyer shall cooperate in such collection but without cost to it.

8.2 Interest on the Mortgage.

8.3 Premiums on transferable insurance policies, or renewals, in effect or as extended at Closing.

8.4 Real estate taxes (and any special assessments, water and sewer taxes or other charges payable in the same manner as real estate taxes). If the Closing shall occur before the tax rate is fixed, apportionment of real estate taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. If the Closing shall occur before final bills for fiscal 1975 have been issued to Seller, apportionment of real estate taxes shall be upon the basis of the 1975 or latest prior tax rate applied to the latest assessed valuation as set forth in Exhibit 3.2.

8.5 Personal property taxes.

Except as herein expressly otherwise provided, the "Customs in Respect to Title Closings" adopted by the Real Estate Board of New York, Inc., shall apply to the above apportionments.

9. Representations; Condition of Property

9.1 Buyer acknowledges that:

(a) He is fully familiar and satisfied with the condition and repair of the Premises, the value, income, expenses and operation thereof and the uses which may be made of the Premises or any other matter with respect thereto, including, without limitation, the Digas License Agreement;

(b) He has inspected, or caused to be inspected, the Premises and has independently investigated, analyzed and appraised the value and the profitability thereof;

(c) Except as expressly set forth in this contract, neither Seller nor any agent or representative of Seller has made, and Seller is not liable for or bound in any manner by, any express or implied warranties, guarantees, promises, statement, inducements, representations or information pertaining to the Premises, or any part thereof, the

physical condition, income, expenses or operation thereof, the uses which can be made of the same or any other matter or thing with respect thereto, including, without limitation, any leases, and that without limiting the foregoing, except as expressly set forth in this contract, Seller is not liable for or bound by (and Buyer has not relied upon) any verbal or written statements, representations, real estate brokers' "set-ups" or any other information respecting the Premises furnished by the Seller or any broker, employee, agent, consultant or other person representing or purportedly representing the Seller.

(d) No responsibility has been assumed by Seller as to the condition or repair of the Premises or the value thereof or as to any other fact or condition which has or might affect the Premises or the condition, repair, value, expense of operation or income potentials thereof.

9.2 Buyer, by acceptance of the closing documents, shall accept the Premises in the condition in which they are at the time of the execution of this contract, ordinary wear and tear excepted.

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10. Brokerage

The parties hereto represent that no broker has been involved with the negotiations of this contract and the purchase of the Premises pursuant hereto and that no broker is entitled to a commission in connection with this transaction.

11. Buyer's Default

In the event Buyer shall default in the performance of Buyer's obligations under this contract, Seller may retain all sums paid by Buyer under 2.1 as liquidated damages or have recourse to such rights, relief and remedies as may be available at law or in equity.

12. Assignments

No assignment hereof by Buyer shall be valid unless a duplicate original thereof containing an assumption by the assignee or assignees, in form satisfactory to the Seller, shall be delivered to the Seller. No assignment shall relieve Buyer from performance of the obligations undertaken by Buyer under this contract.

13. Notices

All notices, requests, consents and other communications required or permitted to be delivered hereunder shall be in writing and shall be delivered by Registered or Certified Mail, postage and registration or certification charges prepaid as follows:

To Buyer at:	Dominick's Finer Foods, Inc. 555 Northwest Avenue Northlake, Illinois 60164 Attn.: E. R. Hershey, Esq.
and, to the Seller or any member thereof at:	c/o Samuel W. Ingram, Jr., Esq. Shea Gould Climenko Kramer & Casey 330 Madison Avenue New York, New York 10017

Any party hereto may, from time to time, designate any other address to which such notice, request, consent or other communication addressed to it shall be sent. All such communications shall be effective on delivery.

14. Expenses

Whether or not the transactions contemplated under this contract are consummated, each party hereto shall pay his own expenses incident to the preparation and performance of this contract, including, without limitation, attorneys' fees.

15. Survival of Agreements

All covenants, agreements, representations and warranties made herein shall survive the execution and delivery of this contract and the consummation of the transactions contemplated herein.

16. Entire Agreement

This contract (including all schedules annexed hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings, if any, with respect thereto. This contract may not be modified, changed, supplemented or terminatedd, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by his agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

17. Waivers; Extensions

No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

18. No Recording

The parties each agree that neither this contract nor any memorandum or notice thereof shall be recorded.

19. Counterparts; Captions

This contract may be executed in counterparts, each of which shall be deemed an original. The captions are for convenience of reference only and shall not affect the construction to be given any of the provisions hereof.

20. Pronouns; Joint and Several Liability

All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the parties may require. If the Buyer consists of two or more parties, the liability of such parties shall be joint and several.

21. Claims

Whenever any party shall learn through the filing of a claim or the commencement of a proceeding or otherwise of the existence of any liability for which another party is or may be responsible under this contract, such party shall notify the other party promptly and furnish such copies of documents (and make originals thereof available) and such other information as such party may have which may be used or useful in the defense of such claims and shall afford said other party full opportunity to defend the same in the name of any party and shall generally cooperate with the other party in the defense of any such claim.

22. No Personal Liability of Trustees

It is expressly agreed that the obligations of Seller under or with respect to this contract do not constitute personal obligations of the Trustees or any of them and shall not involve any claim against, or liability on the part of, any of them and that Buyer will look solely to the assets of Illinois Topps Realty Corp. in respect of any claim under or with respect to this contract and will not seek recourse against the Trustees or any of them or any of their personal assets.

IN WITNESS WHEREOF, the parties have duly executed this contract as of the day and year first above written.

Joseph R. Crowley

Herbert B. Siegel

as Trustees of Illinois Topps Realty Corp. a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York under File Nos. 74B614-802, inclusive, and not individually.

DOMINICK's FINER FOODS, INC.

By: W A Ohman
VICE PRESIDENT

HC

Schedule 1.2(b)

That part of Lot 'B' in North side division being a Subdivision of the South 700 feet of the North 740 feet of that part of the South half of Section 17, Township 35 North, Range 14 East of the Third Principal Meridian lying West of Westerly right of way line of Chicago Road (also known as Chicago Vincennes Road) and lying East of Easterly right of way of Dixie Highway. Beginning at a point 10 feet South of the North line of said Lot 'B' and 400 feet East of the North East corner of Lot 'A' in North Side Division of aforesaid East along a line 10 feet South of and parallel to North line of said Lot 'B' a distance of 596 feet thence South on a line perpendicular to last described line a distance of 490 feet thence West on a line parallel with North line of said Lot 'B' a distance of 596 feet to a point 400 feet East of East line of said Lot 'A' extended South thence North to point of beginning, in Cook County, Illinois.

Personal Property

Any conveyors, accessories and spare parts for same located on the premises at 160 JOE ORR ROAD, CHICAGO HEIGHTS, ILLINOIS, together with all heating, plumbing and electrical appliances, if any, located thereon, without warranty or representation, express or implied.

LAW OFFICES
SOL I. DVORKIN
MAX EARL SHERMAN

SUITE 2310
100 NORTH LA SALLE STREET
CHICAGO, ILLINOIS 60602
FRANKLIN 2-1407

RECEIVED
MAR 11 1976
TAX DEPT.

March 9, 1976

Mr. N. J. Loizzi
Interstate Stores
Tax Department
111 Eighth Avenue
New York City, New York 10011

RE: 1975 Quadrennial Assessment
160 Joe Orr Road, Chicago Heights, Ill.

Dear Nick:

Pursuant to the order of bankruptcy court on December 11, 1975, we proceeded with a complaint before the Cook County Board of Appeals relative to the tax assessment for 1975 on your Store No. 88 in Chicago Heights, Illinois.

The assessment for 1975 was $490,054.00. As a result of a hearing on the complaint, a reduction was obtained in the assessed valuation as indicated below, and I am enclosing herewith an official notice of the Board of Appeals of the reduction.

	Original	Revised	Decrease
Assessment	490,054	272,003	218,051

Applying the present equalization factor of 1.4453 and the tax rate of $9.121 per $100.00 of assessed valuation, results in a tax savings of $28,744.74 for each of the years 1975, 1976, 1977 and 1978.

In January you received a first installment bill which was predicated on the old 1974 assessed valuation. As I indicated by my letter of January 29, 1976, this was an estimate

EXHIBIT 3.2

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March 9, 1976

Mr. N. J. Loizzi
Interstate Stores
Tax Department

RE: 1975 Quadrennial Assessment
160 Joe Orr Road, Chicago Heights, Ill.

to enable the County Treasurer to obtain money in advance against the total 1975 bill. The second installment would have been based upon the assessment of $490,054.00 if a complaint had not been filed. As it now stands, you will receive a bill for the second installment based upon the revised assessment of $272,003.00 and you will receive credit for the amount paid on the first installment against the total taxes for 1975, based upon the revised assessment.

I am enclosing herewith a statement setting forth the fees due, pursuant to the order of bankruptcy court confirming our arrangement. I have, however, indicated that this fee should be spread over the four years of the quadrennial. The purpose in doing this is because there is a potential that the Assessor may change the assessment in any one of the quadrennial years. Therefore, we will continue to follow this matter and to make the appropriate complaints and take the appropriate action, and revise the statement of fees whenever and if ever such action becomes necessary.

Yours very truly,

Max Earl Sherman

MES:ck
Enclosure

cc: Joel I. Papernik

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LAW OFFICES

MAX EARL SHERMAN & SOL I. DVORKIN

100 NORTH LA SALLE STREET

CHICAGO, ILLINOIS 60602

FRANKLIN 2-1487

March 9, 1976

terstate Department Stores
linois Topps Realty Corp.
1 Eighth Avenue
w York City, New York 10011

or Professional Services Rendered

RE: Proceedings before Board of Tax Appeals with reference to the 1975 Quadrennial Assessment for the period 1975, 1976, 1977 and 1978 for the property located at 160 Joe Orr Road in Chicago Heights, Illinois.

Volume 13, Perm. Index No. 32-17-302-025

Fees based upon 25% of tax savings for each of said years (1975, 1976, 1977 & 1978) $28,744.74

Said fees payable as follows:

Due presently	$7,186.19
Due March 1, '77	7,186.19
Due March 1, '78	7,186.18
Due March 1, '79	7,186.18

"A lawyers time and advice are his stock in trade"
- Lincoln -

HARRY H. SEMROW
Commissioner

SEYMOUR ZARAN
Commissioner

S.

HARRY H. SEMROW
COMMISSIONER

SEYMOUR ZABAN
COMMISSIONER

BOARD OF APPEALS OF COOK COUNTY

ROOM 601 COUNTY BUILDING
TELEPHONE 443-5542
CHICAGO, ILLINOIS 60602

RECEIVED
MAR 11 1976
TAX DEPT.

NOTICE OF REDUCTION IN ASSESSED VALUATION

Complaint No. 17246

Vol. 13 Permanent Index No. 32-17-302-025

Dear Complainant:

Harry H. Semrow and Seymour Zaban, Commissioners of the Board of Appeals of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce your assessed valuation as follows:

Assessor's 1975 Assessed Valuation 490054 Reduced 1975 Assessed Valuation 272003

The corrected Assessed Valuation will be equalized by the Illinois Department of Local Government Affairs, as provided by law.

Very truly yours,

HARRY H. SEMROW
Commissioner

SEYMOUR ZABAN
Commissioner

HARRY H. SEMROW
MEMBER

SEYMOUR ZABAN
MEMBER

BOARD OF APPEALS OF COOK COUNTY

ROOM 601, COUNTY BUILDING
TELEPHONE 443-5542
CHICAGO, ILLINOIS 60602

NOTICE OF REDUCTION IN ASSESSED VALUATION

Complaint No. 17246

Vol. 13 Permanent Index No. 32-17-302-025

Dear Complainant:

Harry H. Semrow and Seymour Zaban, Members of the Board of Appeals of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce your assessed valuation as follows:

Assessor's 1975 Assessed Valuation 290,054

Reduced 1975 Assessed Valuation 272,003

The corrected Assessed Valuation will be equalized by the Illinois Department of Local Government Affairs, as provided by law.

Very truly yours,

HARRY H. SEMROW
MEMBER

SEYMOUR ZABAN
MEMBER

B.A. NOTICE #REA2-3

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EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	REORGANIZATION
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	Nos. 74 B 614-802, Inclusive
Debtors.	:	

REPORT OF JOSEPH R. CROWLEY, INDEPENDENT TRUSTEE, AND NOTICE PURSUANT TO SECTION 167(5) and (6) of CHAPTER X OF THE BANKRUPTCY ACT

SHEA GOULD CLIMENKO KRAMER & CASEY
Attorneys for Trustees
330 Madison Avenue
New York, New York 10017
(212) 661-3200

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	REORGANIZATION
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	Nos. 74 B 614-802, Inclusive
Debtors.	:	

INDEPENDENT TRUSTEE'S REPORT AND NOTICE PURSUANT TO SECTION 167(5) and (6) of CHAPTER X OF THE BANKRUPTCY ACT

Notice to Creditors and Stockholders:

On or before March 1, 1976, creditors and stockholders of the above-captioned debtors may submit to the undersigned Independent Trustee suggestions for the formulation of a plan or plans of reorganization or proposals in the form of a plan or plans of reorganization.

Attached hereto is a report of the Independent Trustee which it is hoped will give creditors and stockholders and other interested parties the information needed to make such suggestions. Any suggestions or proposals should be mailed or delivered to Joseph R. Crowley, Trustee,

Interstate Stores, Inc., 111 Eighth Avenue, New York, New York 10011, with a copy to Shea Gould Climenko Kramer & Casey, Attorneys for the Trustees, 330 Madison Avenue, New York, New York 10017.

Dated: December 15, 1975

JOSEPH R. CROWLEY

Independent Trustee

SHEA GOULD CLIMENKO KRAMER & CASEY
330 Madison Avenue
New York, New York 10017

Attorneys for the Trustees

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	REORGANIZATION
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	Nos. 74 B 614-802, Inclusive
Debtors.	:	

Report of Joseph R. Crowley, Independent Trustee in Reorganization of the Debtors Pursuant to Section 167(5) of the Bankruptcy Act.

To the Honorable John M. Cannella, United States District Judge, Honorable Edward J. Ryan, Bankruptcy Judge, and the Creditors, Shareholders, Indenture Trustees, Securities and Exchange Commission and other persons interested in the Debtors.

INTRODUCTION

This report is submitted pursuant to Section 167(5) of Chapter X of the Bankruptcy Act, Chapter X Rule 10-208 and

the order dated June 13, 1974 of the United States District Court for the Southern District of New York (the "Court") for the purpose of furnishing the Court and all interested parties with information as to the results of the investigation conducted on behalf of the Trustee concerning the debtors' properties, liabilities and financial condition, the operation of their business and the desirability of the continuance thereof.

On May 22, 1974, the debtors, Interstate Stores, Inc. ("Interstate")* and its 188 subsidiary corporations, commenced this proceeding (the "proceeding") by filing petitions with the Court for an arrangement under Section 322 of Chapter XI of the Bankruptcy Act, and on such date an order was signed authorizing the debtors to continue in possession and to operate and manage their business. The Court also ordered that the proceeding for all the debtors be consolidated for procedural purposes only. On such date, the Court authorized the retention of S.D. Leidesdorf & Co. as accountants for the debtors-in-possession. Soon thereafter applications were made by four of the major bank creditors

* The term "Interstate" shall refer to the debtor Interstate Stores, Inc., a Delaware corporation, and, sometimes, to the business conducted by Interstate and its consolidated subsidiaries.

of the debtors and by another party to dismiss the Chapter XI proceeding unless the debtors amended their petitions to comply with the provisions under Chapter X of the Bankruptcy Act. On June 13, 1974 the debtors themselves petitioned the Court to transfer the proceeding to Chapter X, and on such date the Court approved the petition, and appointed Joseph R. Crowley, the Independent Trustee, and Herbert B. Siegel, the Additional Trustee, and authorized the Trustees to operate and manage the business of the debtors.*

On June 18, 1974 the Court authorized the Trustees to retain the law firm of Shea Gould Climenko Kramer & Casey under a general retainer. S.D. Leidesdorf & Co. continued to render services to the debtors in accordance with the aforementioned order of May 22, 1974 particularly in connection with their examination of the financial statements of the debtors for the fiscal year ended February 3, 1974 and the preparation of such financial statements for the debtors' annual report for such year on Form 10-K. These financial statements and annual report were completed and filed with the Securities and Exchange Commission in September 1974.

---

* The term "Trustee" shall refer to Joseph R. Crowley the Independent Trustee, and the term "Trustees" shall refer to both the Trustee and to Herbert B. Siegel, the Additional Trustee.

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Thereafter, the Trustees deemed it advisable to retain a new firm of independent auditors to assist in the conduct of an investigation required under Section 167 of the Bankruptcy Act, to conduct an examination of the financial statements of the debtors for the fiscal year ended February 2, 1975 and to perform other services. On November 12, 1974 the Court authorized the Trustees to retain the firm of Touche Ross & Co. for such purposes.

Appearances in the reorganization proceeding were filed by the Securities and Exchange Commission, counsel for the institutional creditors, counsel for the Indenture Trustees, counsel for unofficial creditors' committees, counsel for the so-called "Bondholders Protective Committee," counsel for a number of other creditors, and other interested parties. Such persons have been advised of all significant applications made by the Trustees in the proceeding.

HISTORY OF THE DEBTORS

THE EARLY PERIOD - 1928 to 1958.

Interstate* was founded in 1928 as a Delaware corporation for the purpose of acquiring the stock of companies operating 23 department stores. During the period

* The corporation was organized under the name "Interstate Department Stores, Inc." and its name was changed to "Interstate Stores, Inc." in 1970.

through 1958 it grew from a chain of 23 conventional department stores to a highpoint of 52 stores in 1947, declining to 47 stores in 1958. Gross revenues during this 30-year period increased from $21 million in 1928 to $66 million in 1958. However, in the 10-year period from 1948 to 1958 sales remained fairly constant, ranging between $60 and $68 million, and net income after taxes during this period fluctuated between $1 and $2 million. In retrospect, the year 1958 marked an end of one era and the beginning of another. It was the last year before Interstate "went discount." It was also a year of disappointing results of operations; income after taxes declined to $645,000 from $1,040,000 the previous year. Cash dividends were reduced from $2.50 per share to $.92-1/2 - the first reduction in dividends in Interstate's history. At fiscal year end January 31, 1959, Interstate had 325,608 shares issued and outstanding and its shares were listed on the New York Stock Exchange.

Interstate's conventional department stores were primarily located in the Eastern and Mid-Western states. The stores were operated under different names in different locations and often were the leading retail stores in the community. The stores were full-line department stores offering a broad variety of usually brand name merchandise. The stores

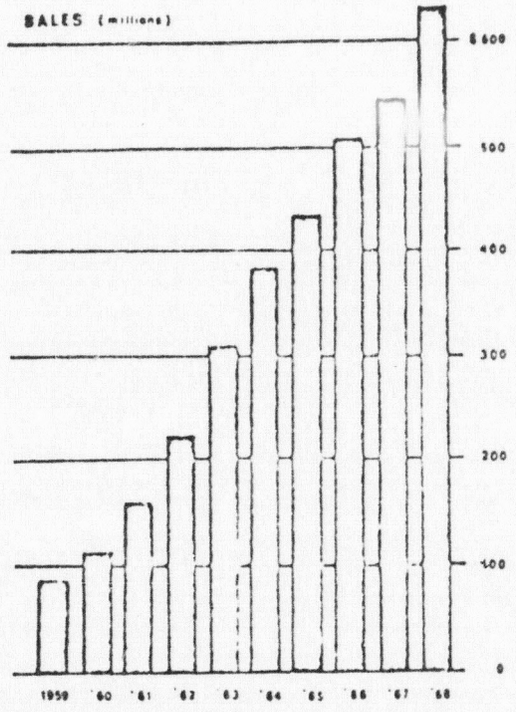
were mostly located in the downtown shopping areas. Retailing in the 1950's was characterized by the relative decline in importance in downtown stores as a result of the migration to the suburbs. Interstate began closing marginal stores, modernizing and remodeling key stores that still remained dominant in their communities, and in some instances opening suburban branches.

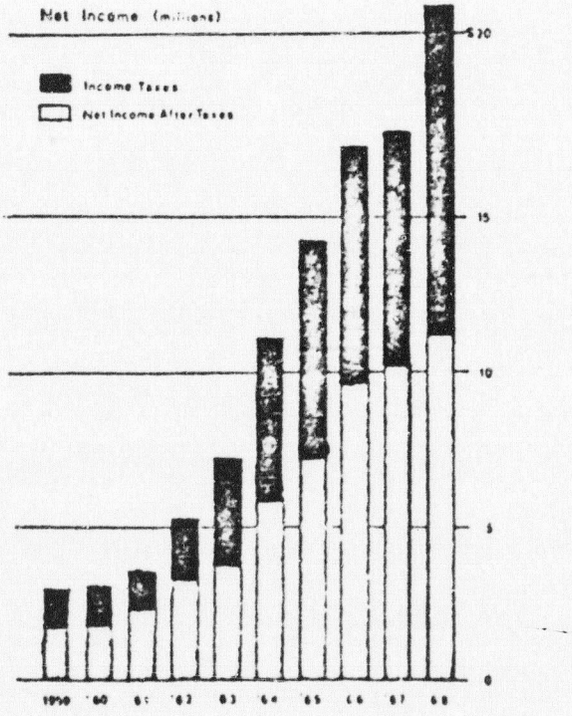
THE DISCOUNT YEARS - THE PERIOD OF DRAMATIC GROWTH - 1959 to 1968

During this ten year period of uninterrupted growth, the debtors became one of the country's larger retailing chains. In the beginning of 1959, the debtors were comprised of 47 conventional department stores. Sales for the fiscal year then ended were $66 million and net income after taxes was $645,000. At the end of fiscal 1968 the debtors had grown to 125 stores, sales exceeded $641 million and net income after taxes was over 11 million. Although sales eventually reached a peak of over $708 million in 1971 and the number of stores increased to 175, the 1968 fiscal year represented the zenith of profitability and performance.*

* Interstate's fiscal year ended at the end of January. The term "fiscal year" when used in this Report shall refer to the preceding 12 month period, as, for example, the year ended January 31, 1969 is the 1968 fiscal year.

The following charts illustrate this dramatic growth:





A more detailed financial review of this 10-year period is contained in Exhibit G to this Report.

The White Front Stores Division

The debtors entry into the discount field was through the acquisition in April 1959 of the then two existing White Front discount stores operating in Los Angeles and Van Nuys, California, for a purchase price of 16,393 shares of Interstate Common Stock having a market value of $6 million and $1.15 million in cash. These stores specialized in selling brand name major appliances at discount prices. The debtors expanded the White Front division by opening their own stores, principally in California, and White Front expanded to 25 stores at the end of 1968, 22 stores located in California and 3 in Washington. The number of White Front Stores ultimately reached 41 in 1972. The stores ranged in size from 40,000 square feet to 160,000 square feet, and averaged about 133,000 square feet, including supermarket operations, all in one-story newly built structures. The stores continued to specialize in "hard goods" - major appliances, television sets and allied lines such as radios, record players and household electrics - although the stores also sold broad lines of women's and girls' apparel and men's and

boys' furnishings. The stores also included "leased" departments operated under license arrangements with non-affiliated persons. These leased departments included principally shoes, beauty salons, certain houseware and drug sundries, and in certain locations also included food supermarkets and automotive centers. These leased departments were operated as an integral part of the stores and were not separately identifiable by customers. The sales of these leased departments were included, although separately reported, in the consolidated statements of operations of the debtors, except that in 1970 the debtors reclassified their financial statements to exclude the sales from the food supermarkets. The termination of these license arrangements in connection with the closing of the White Front stores, as well as the Topps stores, caused the licensees to file substantial claims which is discussed elsewhere in this Report under "Liabilities of the Debtors-Concessionaire Claims."

The Topps Stores Division

The debtors started the Topps discount store division with the acquisition in 1960 of a chain of eight stores operating in New England and the Mid-West for a purchase price of 20,000 shares of Interstate Common Stock having a market

value of $7.2 million and $2,778,000 in cash. Through internal expansion this chain reached a peak of 75 stores by 1970. The stores remained regionally concentrated in the East and the Mid-West and were clustered around major cities, including Chicago, Cleveland, Columbus, Detroit, Baltimore, Hartford and Buffalo. Initially, these stores emphasized "soft lines", particularly women's apparel. However, in the late 1960's sales were about evenly divided between "hard" and "soft" lines.

The Conventional Department Stores Division

During this 10 year period of dramatic growth in the discount field, the conventional department stores division continued its trend of consolidation. The number of stores declined from 47 in 1959 to 31 in 1968. However, profits for the remaining group of stores increased from $1.3 million to $3.8 million. Nevertheless, it was clear that the energies and resources of the debtors were not directed to this aspect of their business since only one new suburban store was opened during the entire period.

The Toys Stores Division

During the latter part of this period the debtors expanded into the retail toy store field. In November 1966, Interstate acquired the four store Children's Supermart chain

located in the Washington, D. C. area. Two additional stores were opened in the Washington suburbs and two in Los Angeles. It was not until March 1969 when Interstate acquired another retail toy store organization, the eight store chain of Children's Bargain Town, U.S.A., that the toy division began its rapid expension. See "Business and Assets of the Debtors" elsewhere in this Report, for a discussion of the Toys "R" Us division.

FINANCING THE GROWTH

The debtors were able to finance a part of their expansion with funds generated from earnings. Consolidated retained earnings increased from $11.7 million at January 31, 1959 to $37.1 million at February 2, 1969. Moreover, opening new stores did not require large capital investments. Generally, new stores were leased. In those situations where the debtors did have an equity interest in their properties it was usually through participating as a 50% stockholder or a 50% joint venture partner in entities which acquired properties and built stores for lease to the debtors. These entities were usually able to obtain 100% mortgage financing. Therefore, only a minimum investment in real estate was required. As at February 2, 1969, the debtors were participants in joint ventures relating to 26 discount stores. At such

date these entities had net fixed assets of $49.2 million, yet the debtors had investments in and advances to such entities of only $2.2 million. The most substantial cost in opening new stores were certain development and promotion costs and store fixtures.

However, with the addition of almost 80 stores during this period the debtors' financial requirements had grown substantially. Inventories at fiscal year ended January 31, 1959 compared to fiscal year ended February 2, 1969 increased from $10.3 million to $100.7 million, fixed assets increased from $6.5 million to $55.8 million, total assets increased from $26.1 million to $195.6 million, and obviously, additional sources of funds were required.

These funds were obtained from three sources: earnings,bank and institutional borrowings, and debt and equity financing. As mentioned above, retained earnings increased by over $25 million. Borrowings increased more substantially. At fiscal year ended January 31, 1959 the debtors had consolidated long term debt of $5 million represented by notes to banks and insurance companies in the amount of $4.6 million, and $360,000 of mortgages payable. By fiscal year ended February 2, 1969 consolidated long term debt had increased to $42.1 million. (It eventually

reached a peak during 1971 of $65.1 million.) The balance of the funds were obtained from the public sale of securities. The principal financings during this period came from the following sources:

1961 - Interstate sold to the public through a subscription offer to its stockholders $5,859,400 of 4 5/8% Convertible Subordinated Debentures due April 1, 1981.

1963 - Interstate borrowed $10 million from a group of insurance companies evidenced by 5 3/8% notes payable through 1983.

1964 - Interstate sold to the public 200,000 shares of its Common Stock at $48.25 a share or net proceeds of $9.2 million.

1967 - Interstate sold to the public $20 million of 4% Convertible Subordinated Debentures due August 1, 1992.*

* Interstate's last sale of securities to the public occurred in 1969 with a sale of 500,000 shares of Common Stock at $33 1/8 per share realizing net proceeds of $15.6 million.

During the period from 1961 through 1968, as the Interstate stock market price rose substantially, holders of $4.9 million of the original $5.8 million of the 4-5/8% Convertible Subordinated Debentures converted their Debentures into shares of Common Stock, thereby increasing capital surplus by over $4.4 million. See "Price Range of Interstate Securities" elsewhere in this Report.

Mortgage indebtedness also increased to $12.6 million at February 2, 1969. Perhaps more significant, the so-called "off balance sheet" financing of the new stores through 50% owned subsidiaries and joint ventures, as discussed above, had increased to a point that these entities had long term mortgage debt and short term borrowing aggregating $49.2 million as at February 2, 1969. It was Interstate's lease obligations on these stores that, indirectly, amortized this mortgage debt. At such date the debtors' minimum annual rental of real and personal property amounted to approximately $14.1 million (not including the related real and personal property taxes).

THE DECLINE AND THE DELUGE: FEBRUARY 1969 to MAY 1974

In retrospect, it is clear that the major contributory factor to the debtors' ultimate need to resort to the protection of the Bankruptcy Act was the overexpansion of the discount divisions during the 1960's and the inability to operate these divisions profitably in the 1970's.

OPERATIONS OF THE DISCOUNT DIVISION

Fiscal 1968 was probably the last year of profitability for the White Front division and fiscal 1969 was the last year of profitability for the Topps Division. See Exhibit H to this Report. Although such Exhibit shows that White Front made a contribution to profit during fiscal 1969 and Topps made a contribution to profit during fiscal 1970, an allocation of general corporate overhead would result in losses.

In fiscal 1970, the White Front and Topps discount operations as a whole incurred a loss of approximately $5,100,000 before income taxes. The losses from these discount operations increased during the subsequent fiscal years, and were reported as follows:

Fiscal year	Number of stores in operation at end of period	Operating Losses*	
		Corporate Office Expense Included	Excluded
		- - (000's omitted) - -	
1970	109	$ 5,100	$ 3,600
1971	107	10,500	8,800
1972	91	26,600	23,900
1973	65	27,400	23,600

* Loss excludes interest expense incurred by the debtors in connection with the financing of such operations (See Exhibit I to this Report).

As shown in Exhibit J to this Report, during the period from fiscal 1969 to fiscal 1973, sales of the discount operations declined. Additionally, the gross margin on sales remained static at the same time operating costs continued to increase. The debtors appear to have financed the resultant operating losses through increased borrowing. Interest expense increased from $2,600,000 in 1969 to $8,200,000 in 1973. The interest cost was not totally applicable to the discount stores and consequently is not reflected in the operating results of these divisions.

During the five-year period ended January 1973, payroll costs increased approximately 2.5%, as a percentage of sales. Former management have advised the Trustees that much of this increase was attributed to the unionization of many stores during this period and that the debtors' payroll costs were generally higher than their competitors as a result of the unionized staff. Internal studies prepared for the seven years ended January 30, 1972 indicate that the discount divisions' payroll cost exceeded that of their competition by approximately 3.3% of sales.

Occupancy costs increased approximately 1.6% as a percentage of sales during the five-year period ended January 28, 1973. This increase resulted primarily from the construction of larger stores which were planned for higher sales volume. However, these larger facilities

generally experienced lower sales per square foot than the smaller store locations. These larger locations required higher sales levels to break even, and these stores never achieved the necessary sales results to operate successfully. Former management have advised the Trustees that many of these larger store locations, which were opened in the period 1969-1971, operated at a loss from inception, and the charts shown in Exhibit J tend to confirm this view.

FINANCIAL CONDITION

Return on Equity and Capital

Interstate's performance exhibited a deteriorating trend from a high point in 1969. Exhibit K to this Report, which was compiled from Forbes' Magazine "Annual Report on American Industry" compares Interstate's return on equity and on total capital with other companies. From a strong position in 1969 (number 11 of 28 and 191 of 560, respectively), Interstate's position declined in 1972 (number 43 of 47 and 661 of 750, respectively).

Sales Performance

Interstate's sales during the period from 1969 to 1973 mirrored its performance relative to returns on equity and capital. As shown on Exhibit K to this Report, Interstate was number 10 of 28 among the retail companies and number 216 of 560 among the general businesses surveyed in growth of sales. This position changed by 1972 to num-

bers 42 of 47 and 663 of 750, respectively. In 1973, Interstate was number 55 of 57 retailers surveyed in growth of sales.

Earnings Performance

As shown on Exhibit K to this Report, the debtors' earnings performance compared to other retailers and public companies generally followed a similar trend from 1969 when it was number 17 of 28 and 260 of 560, respectively, to 1972 when it was number 46 of 47 and 715 of 750, respectively.

Business Ratios and Statistics

Exhibit L to this Report contains tables of key business ratios and statistics derived from Interstate's financial statements. These show a steady deterioration from 1969 to 1973. Certain of these ratios and statistics are compared to composite data of seventeen leading retailers as reported in the annual report of "Comparative Financial Data - Major Department Stores And Other Leading Merchandisers" issued by Harris Trust and Savings Bank, Chicago, Illinois. The following comparisons show that Interstate compared unfavorably with the composite of the other retail companies:

	1969		1973	
	Composite Harris Study	Interstate	Composite Harris Study	Interstate
Current ratio	1.99	1.47	1.95	.64
Quick ratio	1.18	.32	1.15	.15

Trade Credit

Trade payables also constituted an increasing source of capital during the period 1969 to 1971 as follows:

Fiscal year ended	Percent of Trade Payables to Inventory
1969	48
1970	59
1971	67

This increase occurred during a period when inventories were increasing at a greater rate than sales:

	Percentage Change		
Fiscal year ended	Inventory	Sales	Increase in No. of stores
1969	25	16	11
1970	20	12	19
1971	4	4	12

The growth in trade payables and deteriorating financial condition was recognized in 1972 when, due to the late payment of trade bills, the National Credit Office, an important credit agency, withdrew Interstate's recommended credit line on December 20, 1972.

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Indebtedness

Beginning with the year ended January 31, 1971, the amount of short-term and long-term borrowing, including mortgage debt, increased significantly. A comparison of debt as at year end for the six years ended February 3, 1974, is as follows.

Fiscal year ended	Long-term debt	Short-term debt*	Total
	(000's omitted)		
1969	$ 42,146	$ 901	$ 43,047
1970	49,972	7,320	57,292
1971	71,878	1,834	73,712
1972	66,425	19,088	85,513
1973	90,286	1,771	92,057
1974	6,091	114,234**	120,325

* The short term debt as at year end does not reflect the significantly greater amounts of short term bank borrowings during the course of the years which amounts were reduced or paid in full as at the year's end.

** Substantially all debt is classified as current (whether or not payment of the debt has been accelerated by the creditors) as a result of Interstate's commencement of the proceedings.

STORE CLOSING PROGRAM AND CRISES OF 1973

In December 1972 and early 1973 the debtors decided to close substantial numbers of their discount stores. The decision called for 21 White Front Stores to be closed effective as of January 31, 1973 and 20-25 Topps stores to be closed during 1973. Even after this decision, the remaining discount stores appear to have been very unprofitable. An examination of the viability of the stores planned for continued operations shows that the operating results for these "continued" stores were significant losses of approximately $14,000,000 in 1972 and $27,350,000 in 1973. The timing of the store closing program can be questioned, since certain stores were incurring substantial losses as early as 1970 and no stores were closed until the end of 1972. The complete discontinuance of the discount business did not take place until 1974. In retrospect, based upon information then available, it appears as if this decision might have been made at an earlier date. See Exhibits H, I and J to this Report.

When the debtors did begin to implement their store closing program, their problems were compounded by other factors. The announcement of store closings coupled with the delay in issuing the audited financial statements for the 1972 fiscal year adversely affected the debtors' trade credit. The

delay was caused by extended negotiations for a revolving credit agreement with the debtors' banks. The absence of audited financial information and uncertainty regarding the banks' position, caused the debtors to experience significant difficulty in obtaining their customary merchandise and credit terms. This difficulty inevitably contributed to poorer sales. The debtors' difficulties with the trade and the poor results of operations occasioned serious concern with the debtors' institutional lenders, particularly the group of six major banks (the "domestic banks") which furnished the debtors with their short term credit. The debtors had consummated a new revolving credit agreement with the domestic banks in December 1972, after repaying the short-term debt then owed to the domestic banks. This agreement permitted the debtors to borrow up to $51 million during 1973. At January 28, 1973, the fiscal year end, the debtors had borrowed $27 million under the credit agreement. Within seven weeks, by March 23, 1973, the debtors borrowed the remaining $24 million.

The debtors were barely into fiscal 1973 when it became necessary to renegotiate their debt obligations to their institutional lenders: the $51 million revolving credit from the domestic banks, a $13 million Eurodollar

loan and a $5.75 million loan from insurance companies. It appears that the debtors could not finance their losses associated with the store closing programs and losses from continuing discount operations and meet their obligations to these institutions. It was also hoped that deferring the due dates on certain of these obligations and extending the period of time during which certain of these credits could be renewed, would restore the confidence of the trade which was continuing to wane. On June 13, 1973, an Amendatory Credit Agreement became effective dated as of May 14, 1973 which arranged for the restructuring of the loan agreements with the institutional lenders under which certain repayments were deferred and the expiration dates for certain of the outstanding credits were extended. The lenders also obtained as security for the outstanding obligations a pledge of all of the outstanding capital stock of all of the subsidiaries of Interstate. In April 1973 the lenders had already obtained a guarantee of such obligations from all of the the subsidiaries. No additional funds were advanced to the debtors from these lenders as a result of the Amendatory Credit Agreement. However, the debt restructuring was predicated upon the debtors obtaining an additional $5 million subordinated loan from private investors. In June 1973

Interstate privately placed $5 million of Senior Subordinated Notes to eleven purchasers, including Sol Cantor, Chairman of the Board of Interstate. Meshulum Riklis, the Chairman of Rapid-American Corporation purchased $2.5 million of such Notes.

Management's hopes for improvements in 1973 failed to materialize. A decision was made to attempt to convert 18 of the remaining 24 White Front stores to substantially leased departments, with the debtors retaining for their own use the major appliance and television departments. Negotiations to accomplish this took place throughout 1973 without success. Efforts to sell the stores were also unsuccessful. As late as April 1974 the debtors had announced plans to sell the remaining 15 White Front Stores to a group headed by Walter Craig, the president of the discount division, but this, too, was unsuccessful. Also, the debtors were generally unsuccessful in obtaining new tenants or otherwise extricating themselves from lease obligations on the total of 31 Topps and White Front stores closed either in December 1972 or during 1973. These lease obligations aggregating approximately $6,800,000 on an annual basis were a tremendous burden to the debtors.

By Fall of 1973, management's plan contemplated the gradual closing or, hopefully, other disposition of the remaining 24 White Front stores and approximately 50 Topps stores by

the summer of 1974. Since these stores were operating at a loss, closing the stores would not only remove this cash drain, but it would made available additional working capital otherwise necessary to operate these stores until such time as they could be closed in an orderly fashion. The success of this plan assumed that sufficient merchandise could be purchased for both the continuing and discontinuing operations and that trade credit would be extended on a basis resembling normal terms.

In the early Fall of 1973, the debtors started to run out of money. Traditionally, Fall is the time of the money crunch because inventories are increased for the Fall and Christmas seasons, and, correspondingly, trade obligations mount. The debtors had difficulty in meeting their trade obligations on time. If any credit with the trade was to be salvaged, funds had to be obtained to pay the trade. In late September, the debtors secured an additional $8 million in short term credit through December 15th from the domestic banks in order to pay the trade. Eventually about $6,600,000 of this $8 million credit was borrowed and repaid in December.

In December 1973 an apparent solution to the debtors' problems appeared in the person of Meshulm Riklis who proposed an acquisition by the debtors of certain retail

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operations of the McCrory Corporation. It was apparently contemplated that on the basis of such acquisition all the debtors' institutional debt could be refinanced. For five months - from late December through early May 1974 - management of the debtors spent a considerable amount of their energies exploring this alternative with the institutional lenders and Mr. Riklis.

During this time, the only way the debtors could finance their operations was to accelerate closing the Topps discount stores and use the cash from inventory liquidations. Two stores were closed in December 1973, three each in January and February, thirteen in March, eight in April and seven in May. However, the McCrory deal never materialized. On May 13, 1974 it was announced that all negotiations with McCrory were terminated. By that time it was clear that the debtors' plan had not succeeded. The trade had stopped supporting the debtors, lease commitments on closed stores were not materially reduced, and the banks declined to extend new financing. On May 22, 1974 the debtors filed for an arrangement under Chapter XI of the Bankruptcy Act.

DISCONTINUED DISCOUNT DIVISION

The enormity of the collapse of the debtors' discount division is perhaps best illustrated by the following chart

which lists the debtors' White Front and Topps discount stores which were closed during the period from December 1972 to mid-1974, and the dates each store was closed.

White Front

California

Anaheim	July 1974
Bakersfield	Dec. 1972
Canoga Park	July 1974
Chula Vista	July 1974
Costa Mesa	July 1974
Covina	July 1974
Downey	July 1974
Fresno	July 1974
Glendale	June 1974
La Mesa	July 1974
Long Beach	Mar. 1974
Los Angeles	Feb. 1973
Los Angeles	July 1974
Los Angeles	June 1974
Los Angeles	June 1974
Newark	Jan. 1973
Oakland	Jan. 1973
Ontario	July 1974
Pacoima	July 1974
Pleasant Hill	Jan. 1973
Richmond	Jan. 1973
Riverside	Dec. 1972
Sacramento (North)	Jan. 1973
Sacramento (South)	Jan. 1973
Normandy-Imperial	July 1974
San Bernardino	July 1974
San Carlos	Jan. 1973
San Diego	July 1974
San Francisco	Jan. 1973
San Jose	Jan. 1973
South San Francisco	Jan. 1973
Studio City	June 1974
Sunnyvale	Jan. 1973
Temple City	June 1974
Thousand Oaks	Dec. 1972
Torrance	July 1974
Whittier	June 1974

Washington

Bellevue	Dec. 1972
Burien	Dec. 1972
Everett	July 1974
Seattle	Dec. 1972
Tacoma	Dec. 1972

Oregon

Portland	July 1974

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Topps

Connecticut

Berlin	June 1974
East Hartford	June 1974
Fairfield	June 1974
Middletown	May 1972
West Haven	May 1973
Windsor	Apr. 1974

Illinois

Chicago-Addison	May 1974
Chicago-La Grange	June 1974
Chicago-Morton Grove	June 1974
Chicago Heights	Mar. 1974
Downers Grove	May 1973
Elgin	Apr. 1974
Joliet	June 1974
Markham	Feb. 1974
Oak Lawn	Mar. 1974
Rockford	June 1973
Rolling Meadows	May 1974
Waukegan	June 1974

Kentucky

Louisville-Dixie Highway	June 1973
Louisville-Hikes Point	June 1973
Louisville-Outer Loop	June 1973

Indiana

Clarksville	June 1973
Gary	Mar. 1974
Greenwood	Apr. 1974
Highland	June 1974
Indianapolis-38 St.	Jan. 1974
Indianapolis Speedway	Apr. 1974
Lafayette	July 1972
Terre Haute	Feb. 1974

Iowa

Davenport	June 1973
De Moines	May 1973
De Moines	May 1973

New Jersey

Totowa	Apr. 1972

New York

Buffalo-Central	Mar. 1974
Buffalo-Cheektowaga	Mar. 1974
Buffalo-Orchard Park	Mar. 1974
Buffalo-Tonawanda	June 1973

New York

Menands	June 1974
Rochester-Henrietta	Dec. 1973
Rochester-Goodman St.	Jan. 1974
Rochester-Greece	Dec. 1973

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Topps

Maryland

Baltimore-Dundalk	June 1974
Baltimore-Peering Parkway	May 1974
Baltimore-Pike Park Mall	May 1974
Baltimore-Timonium	Mar. 1974
Glen Burnie	Mar. 1974

Massachusetts

Fall River	July 1973
Springfield	June 1973
West Springfield	Apr. 1974

Michigan

Ann Arbor	Mar. 1974
Detroit Oak Park	May 1974
Detroit-Redford	June 1974
Detroit-Southgate	Feb. 1974
Detroit-Warren	May 1974
Farmington	July 1973
Kalamazoo	Jan. 1974
Lansing	June 1973
Pontiac	June 1973
Taylor	Mar. 1974
Wayne	Mar. 1974

Ohio

Canton-Stark	May 1973
Canton-Whipple Rd	June 1973
Cleveland-Maple Heights	Apr. 1974
Cleveland-Mayfield Heights	May 1974
Cleveland-North Olmsted	Apr. 1974
Cleveland-Parma Heights	June 1974
Toledo-Reynolds Rd.	Mar. 1974
Toledo-Secor Rd.	June 1974
Willoughby	Apr. 1974

Wisconsin

Madison	Apr. 1970
Kenosha	Mar. 1974

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CAPITALIZATION

Interstate is a publicly owned corporation. Interstate, in turn, owns all of the outstanding shares of capital stock of its 188 subsidiary corporations, which together with Interstate comprise the debtors in this proceeding.

As at the date this proceeding commenced, Interstate had outstanding the securities described below. The description of such securities is as of such date and as of the date of this Report. However, in connection with any plan of reorganization the Court has the power to alter or modify the rights of holders of such securities and has the power to cancel any of such securities.

Common Stock

Interstate has only one class of Common Stock, par value $1.00 per share. Under Interstate's Certificate of Incorporation, it is authorized to issue 10,000,000 shares of Common Stock and as at May 22, 1974, the date this proceeding commenced, 5,474,857 shares were outstanding, including 5,800 treasury shares. The number of outstanding shares have not changed. The holders of Common Stock have one vote per share. Upon the liquidation, dissolution or winding up of Interstate, the holders of Common

Stock are entitled to share ratably in the assets of Interstate legally available for distribution to stockholders. See "Further Procedure in the Reorganization" elsewhere in this Report for a brief discussion of the rights of stockholders to any consideration in a plan or reorganization. The Common Stock has no redemption or sinking fund provisions and is not liable to further calls or assessments. Shareholders do not have any preemptive or cumulative voting rights.

4% Convertible Subordinated Debentures due 1992

In August 1967, Interstate sold to the public 4% Convertible Subordinated Debentures due August 1, 1992 in the aggregate principal amount of $20 million. The proceeds were used to finance the debtors' store expansion program. The Debentures are registered Debentures without coupons in denominations of $1,000 and multiples thereof. Interest payments are due semi-annually on each February 1 and August 1 of each year. The last interest payment made was the payment due February 1, 1974.

The debentures are redeemable at the option of Interstate, provided that Interstate is not in default as to Senior Indebtedness (as defined), on 30 days' notice, at declining redemption prices which ranged from 104% of the principal amount in 1967 to 100% after August 1, 1987.

The Indenture pursuant to which the Debentures were issued requires Interstate to pay to the Indenture Trustee, as a sinking fund, on or before August 1 of each year from 1978 to 1991, $900,000 for the purchase of such principal amount of Debentures, subject to credit for Debentures converted, or cancelled or purchased or redeemed otherwise than through the mandatory sinking fund.

The Debentures are convertible in multiples of $1,000 into shares of Common Stock at a rate of $37.45 per share.

The Indenture provides that payment of principal and interest on the Debentures are subordinated to prior payment in full of "Senior Indebtedness" defined, generally, as the principal and interest on all indebtedness for money borrowed or guaranteed by Interstate, or incurred or guaranteed in connection with the purchase of a business or properties not in the ordinary course, unless the instrument creating any such indebtedness expressly provides that it is not Senior Indebtedness. As at May 22, 1974 there was outstanding approximately $71,000,000 of Senior Indebtedness (giving effect to the $3.45 million set-off by the domestic banks at such date), all of which remains outstanding as at the date of this Report.

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4-5/8 Convertible Subordinated Debentures due 1981

In August 1961, Interstate sold to the public through a subscription offer to its stockholders, 4-5/8% Convertible Subordinated Debentures due August 1, 1981, in the aggregate principal amount of $5,849,400. The proceeds were used to finance the debtors' store expansion program. The Debentures were issued as coupon debentures, registerable as to principal only, in denominations of $100, $500 and $1,000 and multiples thereof, and as registered debentures without coupons in denominations of $1,000 and multiples thereof. Interest payments are due semi-annually on each February 1 and August 1 of each year. The last interest payment made on registered debentures was the payment due February 1, 1974 and only interest coupons due and payable at such date and received prior to May 22, 1974 were paid.

The Debentures are redeemable at the option of Interstate, subject to certain limitations, on 30 days' notice, at redemption prices which ranged from 104-5/8% of the principal amount in 1961 to 100% after August 1, 1980.

The Indenture pursuant to which the Debentures were issued requires Interstate to pay to the Indenture

Trustee, as a sinking fund, on or before August 1, of each year from 1968 to 1980, $275,000 for the purchase of said principal amount of Debentures, subject to credit for Debentures converted, or cancelled or purchased or redeemed otherwise than through the mandatory sinking fund.

The debentures are convertible in multiples of $100 into shares of Common Stock at a rate of $8.36 per share.

The Indenture provides that payment of principal and interest on the Debentures are subordinated to prior payment in full of "Senior Indebtedness" defined, generally, as the principal and interest on all indebtedness for money borrowed or guaranteed by Interstate or purchase money indebtedness unless the instrument creating any such indebtedness expressly provides that it is not Senior Indebtedness. As at May 22, 1974 there was outstanding approximately $71,000,000 of Senior Indebtedness (giving effect to the $3.45 million set-off by the domestic banks at such date), all of which remains outstanding as at the date of this Report.

Information as to the 4% and 4-5/8% Convertible Subordinated Debentures

By reason of the subordination of the 4% and the 4-5/8% Convertible Subordinated Debentures to Senior Indebtedness, in the event any Debenture was declared due and payable

prior to expressed maturity because an event of default existed under the Indenture, the holders of all Senior Indebtedness at the time outstanding are entitled to receive payment in full before any payment is made on the Debentures, and in the event of any insolvency or bankruptcy proceedings relative to Interstate or any voluntary liquidation, dissolution or winding-up of Interstate, the holders of Senior Indebtedness are entitled to receive payment in full before the holders of the Debentures are entitled to receive any payment. As a result of such subordination, creditors who are not holders of Senior Indebtedness or of Debentures may recover less, ratably, than holders of Senior Indebtedness and may recover more, ratably, than holders of Debentures. See "Further Procedure in the Reorganization" elsewhere in this Report.

Events of Default have occurred under the respective Indentures by reason of Interstate's filing of the petition for arrangement in this proceeding and the failure to make required interest payments. However, both The Bank of New York, as Indenture Trustee under the 4% Convertible Subordinated Debentures, and Chase Manhattan Bank, as Indenture Trustee, and United States Trust Company of New York, as successor Indenture Trustee, under the 4-5/8% Convertible Subordinated Debentures, have not exercised their rights to declare the principal of all the respective Debentures due and payable immediately.

As at the date of this Report all $20 million in principal amount of 4% Convertible Subordinated Debentures is outstanding and there are 678 registered debenture holders, and there is $439,300 principal amount of 4-5/8% Convertible Subordinated Debentures outstanding (the original principal amount having been reduced as a result of voluntary conversions), and such Debentures are held by an undetermined number of persons.

Senior Subordinated Notes

In June 1973, Interstate sold in a private placement to twelve purchasers Senior Subordinated Notes due January 1, 1977 in the aggregate principal amount of $5,000,000. The Subordinated Notes bear interest at the rate of 2% per annum in excess of the best rate charged by Bankers Trust Company on 90 day unsecured commercial loans. The Notes provide that payment of principal and interest is subordinated to the then outstanding Domestic Bank loans, Eurodollar loans and insurance company loans and any additional borrowings from such lenders, the due date of which did not extend beyond December 31, 1976. The last interest paid on these Notes was for the period ended April 30, 1974.

Warrants

In connection with the sale of the $5 million Senior Subordinated Notes, Interstate issued the purchasers of the Notes warrants to purchase 1,000,000 shares of Interstate Common Stock. The warrants are exercisable until November 30, 1978 at an initial exercise price of $3.00 per share subject to adjustment for anti-dilution provisions.

PRICE RANGE OF INTERSTATE SECURITIES

Until May 24, 1974, Interstate's Common Stock and 4% Convertible Subordinated Debentures were listed and traded on the New York Stock Exchange. On that date, these securities were suspended from trading and on June 20, 1974 the securities were delisted and their registration on the Exchange was terminated. The 4-5/8% Convertible Subordinated Debentures had traded over-the-counter in a limited market. The following information indicates the high and low prices of these securities for the periods indicated.

Common Stock*

	1965	1966	1967	1968	1969
High	40-1/2	38-3/4	50-3/8	49-1/2	46-1/2
Low	26-7/8	24-3/4	26	33-7/8	24

	1970	1971	1972	1973	1974	1975**
High	28	20	16-1/8	5-3/8	2-7/8	1-5/8
Low	11-3/8	8-1/8	5-5/8	1	3/16	1/8

4% Convertible Subordinated Debentures

	1967	1968	1969	1970	1971	1972
High	102 1/2	120	107 1/2	73	65 1/4	60
Low	92	95 1/2	68	45	45 3/4	41 3/4

	1973	1974	1975**
High	47-1/4	27-3/8	15-1/2
Low	11-7/8	4	5

* The prices prior to February 1968 do not reflect any adjustment for a five or four stock split in February 1968.

** To December 4, 1975

Source: Moody's 1975 Industrial Manual and The National Quotation Bureau, Inc.

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4 5/8% Convertible Subordinated Debentures

	1965	1966	1967	1968	1969	1970
High	315	302	425	445	349	156
Low	217 1/2	210	274	381	259	130

	1971	1972	1973	1974	1975*
High	189	150	91	46	15-1/2
Low	114	90	37-3/8	3	9-1/2

BUSINESS AND ASSETS OF THE DEBTORS

The present business of the debtors as conducted and managed by the Trustees is the Toys "R" Us division and the conventional department stores division.

TOYS "R" US

Toys "R" Us is a chain of 52 retail toy supermarts located in nine states. The toy division supermarts sell children's toys, games, sporting goods, small pools, records and other recreational items, infant and juvenile furniture, infants wear and similar items. Most of these stores range

* To December 4, 1975

Source: Moody's 1975 Industrial Manual and The National Quotation Bureau, Inc.

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in size from 30,000 to 50,000 square feet and are freestanding units built since 1955.

As described under "History of the Debtors - The Toy Stores Division" elsewhere in this Report, Toys "R" Us was a product of two acquisitions by Interstate - the first in 1966 and the latter 1969. Commencing in 1970 and for the four fiscal years ended January 28, 1973, Toys "R" Us expanded rapidly, both in number of stores and in net profits. During the fiscal year ended February 3, 1974 Toys "R" Us continued to be profitable despite the unstable and deteriorating financial condition of Interstate. Although the fiscal year ended February 2, 1975 was the division's most profitable year, management believes that results were still adversely affected by the inability to obtain certain merchandise in the first half of the year due to Interstate's financial condition and the commencement of the proceeding. Management of Toys "R" Us also believes that its ability to obtain mortgage financing for new stores is substantially affected by the reorganization proceeding.

Set forth below are the number of stores and summary financial information on the Toys "R" Us division for the six fiscal years ended February 2, 1975.

	Fiscal Year Ended			
	2/1/70	1/31/71	1/30/72	1/28/73
No. of Stores	21	28	37	45
Net Sales - Own (in millions)	47.0	66.1	91.2	118.0
Profit Before Federal Income Tax (in millions)*	6.85	8.28	10.15	12.55

	2/3/74	2/2/75
No. of Stores	47	51
Net Sales - Own (in millions)	130.1	139.8
Profit Before Federal Income Tax (in millions)*	12.54	13.03

Financial statements for Toys "R" Us for the fiscal year ended February 2, 1975, including a statement of operations for the year then ended and a balance sheet as at such date, as reported on by Touche Ross & Co., independent certified accountants for the Trustees, are included as Exhibit B to this Report, and an unaudited statement of operations for

* These amounts do not reflect a service charge from the parent company actually charged to the Toys "R" Us companies during certain of these years and do not reflect any other allocation of certain corporate overhead expenses which may be properly allocated to Toys "R" Us.

the 39 week periods ended November 2, 1975 and November 3, 1974 are included as Exhibit C to this Report.

Locations

The following schedule sets forth certain information concerning the Toys "R" Us properties.

Store Location	Type of Interest	Square foot of Building	End of Initial Term of Lease
Marlow Heights, Md.	Fee	25,000	--
Rockville, Md.	Fee	25,000	--
Baileys's Crossroads, Va.	Fee	25,000	--
Adelphi, Md.	Fee	25,000	--
Fairfax, Va.	Fee	25,000	--
Lanham, Md.	Fee	25,000	--
Catonsville, Md.	Lease	25,000	August 31, 1994
Towson, Md.	Lease	44,000	October 31, 1987
Richmond, Va.	Lease	34,000	January 31, 1998
Glen Burnie, Md	Lease*	89,000	May 17, 1999
Van Nuys, Calif.	Lease	41,000	July 24, 1980
Torrance, Calif.	Lease	33,000	March 31, 1988
Covina, Calif.	Lease	37,000	July 31, 1982
Anaheim, Calif.	Fee	44,000	--
Ontario, Calif.	Lease	37,000	November 30, 1989
La Mesa, Calif.	Lease	37,000	November 30, 1990
Rosemead, Calif.	Lease	36,000	October 3, 1991
Mission Bay, Calif.	Lease	44,000	January 31, 2003
Canoga Park, Calif.	Lease	33,000	January 31, 2003
Cerritos, Calif.	Lease	34,000	January 31, 2003
Sunnyvale, Calif.	Lease	39,000	May 31, 1989
Pleasant Hill, Calif.	Lease	39,000	November 30, 1989
Serramonte, Calif.	Lease	42,000	January 31, 1997
Hayward, Calif.	Lease	44,000	January 31, 1997
San Jose, Calif.	Lease	44,000	January 31, 1998
Sacramento, Calif.	Lease	44,000	January 31, 1998
Chicago No., Ill.	Fee	30,000	--
Chicago W., Ill.	Fee	32,000	--
Chicago S.W., Ill.	Lease	33,000	January 31,2003
Melrose Park, Ill.	Fee	39,000	--
Niles, Ill.	Fee	39,000	--
Calumet City, Ill.	Fee	40,000	--
Highland Park, Ill.	**	90,000	April 30, 1997

Store Location	Type of Interest	Square foot of Building	End of Initial Term of Lease
Schaumburg, Ill	Lease	47,000	November 1, 1996
Downers Grove, Ill.	Lease	33,000	January 31, 2003
Chicago S.E., Ill.	Fee	32,000	--
Milwaukee, Wisc.	Fee	49,000	--
Southgate, Mich.	Fee	47,000	--
Madison Heights, Mich.	Fee	47,000	--
Southfield, Mich.	Lease	47,000	January 31, 2002
Livonia, Mich.	Fee	55,000	--
Roseville, Mich.	Fee	35,000	--
Brooklyn, N. Y.	Lease	50,000	November 30, 1977
Levittown, N. Y.	Lease	48,000	October 29, 1995
Commack, N. Y.	Lease	47,000	January 31, 2002
Totowa, N. J.	Lease*	49,000	October 15, 1996
E. Brunswick, N. J.	Lease	47,000	January 31, 1996
Paramus, N. J.	Lease	30,000	January 31, 1998
Watchung, N. J.	Lease	36,000	January 31, 1995
Gulf Freeway, Tex.	Lease	35,000	January 31, 1999
N. Freeway, Tex.	Lease	34,000	January 31, 1999
Katy Freeway, Tex.	Lease	34,000	January 31, 2004
Warehouse Location			
Beltsville, Md.	Fee	105,000	--
Compton, Calif.	Lease	121,000	November 11, 1984
San Jose, Calif.	Lease	66,000	January 31, 1999
Melvindale, Mich.	Lease	52,000	Year to Year
Secaucas, N. J.	Lease	115,000	September 30, 2003
Houston, Tex.	Lease	58,000	Month to Month***
Bensonville, Ill.	Lease	101,000	January 31, 1999

CONVENTIONAL DEPARTMENT STORES

The conventional department store division consists of 15 stores located in seven states. The department stores sell full lines of apparel and accessories, home furnishings

* The debtor has a long-term lease.

** This property is owned by a joint venture in which one of the debtors has a 50% interest.

*** This lease expired in August 1975 and negotiations are in progress for a one-year renewal.

and other goods and products customarily found in department stores. Certain departments in the department stores are leased to and operated by non-affiliated persons. These leased departments, which include principally shoes, beauty salons, jewelry and photographic equipment, are operated as an integral part of the stores. The department stores vary in size from approximately 44,000 square feet to 220,000 square feet and are located in downtown or suburban areas in or near small or moderately sized cities. The buildings were constructed in years ranging from 1922 to 1973.

Set forth below are the number of stores and summary financial information on the department stores division for the six fiscal years ended February 2, 1975.

	Fiscal Year Ended			
	2/1/70	1/31/71	1/30/72	1/28/73
No. of Stores	31	30	31	28
Net Sales - Own (in millions)	68	64	70	70
Profit Before Federal Income Tax (in millions)*	5.1	3.8	4.7	4.7
	2/3/74	2/2/75		
No. of Stores	26	17		
Net Sales - Own (in millions)	68	44		
Profit Before Federal Income Tax (in millions)*	3.5	--		

* These amounts do not reflect a service charge from the parent company actually charged to the department stores during certain of these years and do not reflect any other allocation of certain corporate overhead expenses which may be properly allocated to the department stores.

As shown in the above table, both the size and results of operation of this division were fairly constant through the fiscal year ended February 3, 1974. However, the results of operations of the department store division for the fiscal year ended February 2, 1975 were materially adversely affected by the events preceding the commencement of this proceeding and by the disruptive effects of the early stages of the proceeding. In early 1974 the department stores suffered from the credit restrictions imposed by suppliers to all of the Interstate operations and certain merchandise was not being sold to the stores. When the debtors filed their petition in May 1974, credit virtually ceased and a number of important suppliers refused to do business on any terms. It was not until the end of the summer of 1974 that the Trustees were able to improve trade relations. By this time three of the main selling seasons - Spring, Summer, and Fall - were adversely affected by insufficient inventory. However, programs to reduce costs and increase profit margins were introduced by the Trustees and the department store division essentially broke-even during 1974.

After the Trustees assumed management of the debtors, they decided to close ten of the unprofitable or marginal stores, eight of which were closed by the end of the fiscal year. An eleventh store was destroyed by fire. Although

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the number of stores in the division has been greatly reduced, the Trustees believe that the remaining stores can be operated profitably. This opinion was confirmed by an independant evaluation made during September 1975. The department stores, although not to the extent of Toys "R" Us, is a seasonal business, dependent on successful Fall and Christmas seasons. See Exhibit D to this Report for the unaudited statement of operations for the department stores division for the 39 week periods ended November 2, 1975 and November 3, 1974.

Locations

The following schedule sets forth certain information concerning the department store properties.

Store Location	Type of Interest	Square foot of Building	End of Initial Term of Lease
Huntington, W. Va.	Lease	109,000	January 31, 1986*
Paducah, Ky.	Lease	48,000	July 15, 1983
Troy, N. Y.	Lease	56,000	January 31, 1977
Utica, N. Y.	Lease	219,000	August 31, 1983 & August 30, 2004
Vincennes, Ind.	Lease	44,000	November 30, 1976
Rome, N. Y.	Lease	60,000	January 31, 1999
Flint Court Mall, Mich.	Lease	79,000	April 30, 1994
Rutland, Vt.	Fee	58,000	--
Flint No. West, Mich.	Lease	120,000	August 30, 1986
Niskayuna, N. Y.	Lease	80,000	January 31, 1996
Evansville, Ind.	Lease	95,000	June 29, 2002
Flint So. Plaza, Mich.	Lease	86,000	January 30, 1982
Rockford Loves Park, Ill.	Lease	45,000	August 31, 1998
Evansville-Lawndale, Ind.	Lease	68,000	December 31, 1982
Latham, N. Y.	Lease	92,000	July 31, 1994
Knoxville, Tenn.	Lease	78,800	January 31, 1986**

* The renewal of this lease until such date is subject to Court approval.

** This store was destroyed by fire in 1975 and is scheduled to be reopened during 1976.

Warehouse Location	Type of Interest	Square foot of Building	End of Initial Term of Lease
Paducah, Ky.	Lease	4,000	December 31, 1975*
Evansville, Ill.	Lease	20,000	October 31, 1977

OTHER ASSETS OF THE DEBTORS

Current Assets

The principal current assets of the debtors are cash, inventory and accounts receivable. These assets change in the ordinary course of business and are functionally related to the current liabilities at any given time. As at November 2, 1975 the principal current assets of the debtors are as follows:

	Toys "R" Us	Department Store Division	Parent Company and Discontinued Operations	Consolidated
Current Assets				
Cash and Certificates of Deposit	$23,802,000	$ 5,853,000	$8,081,000	$37,736,000
Accounts Receivables:				
Customers	-	5,040,000	44,000	5,084,000
Other (including Cash Advances)	216,000	479,000	2,606,000	3,301,000
Merchandise Inventories	52,549,000	11,575,000	-	64,124,000

* Negotiations for a new location are in progress.

See "Liabilities of the Debtors" elsewhere in this Report for the principal current liabilities of the debtors as at November 2, 1975. Also, see Exhibit F to this Report, the unaudited Consolidated Balance Sheet of the debtors as at November 2, 1975, for a more complete statement of the assets of the debtors as at such date.

Real Property Interests Not Related to the Continuing Operations

The debtors continue to have certain other property interests, principally in former discount store properties. There are five categories of these properties: (i) six leased store properties which the debtors sub-leased on a profitable basis to non-affiliated parties prior to the commencement of the proceeding; (ii) two 100%-owned store properties which the debtors leased to non-affiliated parties on a profitable or break-even basis prior to the commencement of the proceeding; (iii) three joint venture interests in store properties which were leased to non-affiliated parties on a profitable or break-even basis prior or subsequent to the commencement of the proceeding; (iv) six joint venture interests (four of which are 50% interests, one is a 65% interest and one is a 70% interest) in store properties which are vacant; and

(v) five 100% owned store properties which are vacant - two of which are appraised at a greater value than the mortgage indebtedness, one at less than the mortgage indebtedness and two without any mortgage indebtedness. The Trustees are attempting to dispose of their interests in most of these properties. See "Trustees' Administration - Liquidating The Discount Division and Disposing of Real Estate Claims" elsewhere in this Report.

LIABILITIES OF THE DEBTORS

ADMINISTRATIVE CLAIMS

1. Liabilities Incurred in The Course of Business Since May 22, 1974.

The Trustees have been operating the continuing divisions and liquidating the discontinued operations from the date the proceeding commenced and they have incurred liabilities in the ordinary course. All of such liabilities change in the ordinary course of business and since May 22, 1974 they have been paid by the Trustees in the ordinary course. These current liabilities are administrative claims entitled to priority status in a plan of reorganization.

The principal current liabilities as at November 2, 1975 are as follows:

	Toys "R" Us	Department Store Division	Parent Company and Discontinued Operations	Consolidated
Trade Accounts Payable	$30,590,000	$2,846,000	--	$33,436,000
Accrued Expenses Taxes (other than Federal income taxes) and other liabilities	3,584,000	497,000	$125,000	4,206,000

2. Use and Occupation Claims.

When the proceeding commenced in May 1974, a number of discount stores were closed and vacant except, in certain instances, for store fixtures. Additional stores were closed during the period from May through July 1974. The most economically advantageous disposition of the debtors' leasehold interests in most of these stores varied in each case. Until such time as the premises were surrendered to the landlords and/or the leases disaffirmed, the debtors' estates were subject to claims for the use and occupation value of the premises. The Trustees have settled a substantial number of these obligations as is discussed below under "Liquidating the Discount Division and Disposing of Real Estate Claims." The Trustees also have unresolved proofs of claim from about 41 landlords, and in some cases, also mortgagees, relating

to use and occupation claims for approximately 41 store locations. Since may of these proofs of claim do not properly denominate or segregate a separate sum for use and occupation as distinct from a claim for damages due to the termination of the lease, the Trustees are unable to accurately report on the aggregate amount claimed for use and occupation.

3. Allowances to the Trustees, and to Counsel and Accountants for the Trustees.

The Bankruptcy Act provides that the Court may grant allowances to the Trustees and to their counsel and other persons for services rendered in the proceeding. The Court may also grant interim allowances, particularly in extended and complicated proceedings such as this proceeding.

The Independent Trustee has been granted an interim allowance of $15,000 for the period through November 1, 1974. The Additional Trustee received an interim allowance as President and Chief Executive Officer of Interstate at the rate of $75,000 per annum through February 2, 1975 and at the rate of $85,000 since that date.

S.D. Leidesdorf, certified public accountants, were granted allowances of $45,273, primarily for services rendered to, and disbursements incurred for, the debtors-in-possession. Touche Ross & Co., certified public accountants for the Trustees, were granted allowances in the amount of $489,751 for services rendered, and disbursements incurred, through June 25, 1975.

Shea Gould Climenko Kramer & Casey, general counsel to the Trustees, have not requested an allowance for their services rendered to the Trustees since June 1974. However, the Trustees have been advised that such firm intends to apply to the Court in early 1976 for an interim allowance. Numerous special counsel primarily retained for legal matters arising outside New York State have provided services to the Trustees and also will be requesting allowances.

At this time the Trustees cannot reasonably estimate the extent of all further interim and final allowances which may be granted in the proceeding.

PRE-PETITION CREDITOR CLAIMS

As at October 31, 1975, the Trustees had received approximately 9,000 proofs of claim asserting claims against the debtors in an aggregate amount of $285,150,830. The pre-petition liabilities of the debtors as recorded on the debtors' books and records as at May 21, 1974 (as revised as at November 2, 1975) was $148,628,00. The difference is due to several factors.

(1) Damage claims principally arising from terminating the store leases and concessionaire agreements - This is the most significant factor. As at October 31, 1975, real estate claims for $106,352,532 and concessionaire claims for $52,506,330 had been filed. Not more than $39 million of such amounts have been provided for on the debtors' books and records.

(2) Duplicate claims - The most material instances of duplicate claims appears when both the landlord and mortgagee have filed claims with respect to the same lease. Other instances include certain claims by labor unions on behalf of employees where certain of these employees have filed on their own behalf.

(3) Creditors on the debtors' books and records who have not filed claims - Under the Bankruptcy Act, a creditor will be entitled to participate in any plan of reorganization even if the creditor has not filed a proof of claim, provided that its claim has been listed by the Trustees and is not contingent, unliquidated or undisputed. As at October 31, 1975, the accounting personnel of the debtors had completed the reconciliation with the debtors' books and records of approximately $265 million of the $285 million of the proofs of claim filed. When this reconciliation is complete a determination will be made of the creditors and the amount of claims contained in this category.

Since the proceeding commenced, the Trustees and their counsel have been continuously engaged in efforts to obtain waivers, settlements, reductions or disallowance of claims filed or asserted. Hundreds of these claims have been the subject of proceedings in the Bankruptcy Court.

Many others have been resolved without the necessity of Court proceedings. To date, most of the Trustees and their counsels' efforts to reduce claims have been focused on the real estate claims and trade and expense payable claims. As of October 31, 1975 there have been reductions in the amount of $17,597,885 of real estate claims and $3,173,275 of trade and expense payable claims as a result of court orders obtained by the Trustees. At such date, other claims aggregating $43,945 have been reduced or expunged. In addition, the Trustees estimate that potential real estate claims in excess of $22,700,000 which were asserted but never filed, were disposed of by negotiated settlements.

The following are the categories and amounts of claims filed as at October 31, 1975:

Institutional Creditors' Claims

Domestic Bank Loans	$ 48,158,949
Eurodollar Bank Loans	14,187,22[illegible]
Insurance Company Loans	5,796,056
Senior Subordinated Notes	4,960,742
4% Convertible Subordinated Debentures	20,255,573*
4-5/8% Convertible Subordinated Debentures	--- *
Real Estate Claims	106,352,532
Trade Payables	18,184,904
Expense Payables	5,845,406
Employee Claims	2,732,286
Concessionaire Claims	52,506,330
Taxes	5,945,826
Miscellaneous	225,000
TOTAL	$285,150,830

* The Trustees notice to creditors to file proofs of claim advised holders of securities, including debentureholders,

Institutional Creditors' Claims

The amount of these claims, $68,142,231, is essentially in accord with the debtors' books and records except for approximately $470,000, most of which represents a dispute in the amount of the set-off of the debtors' accounts at one of the domestic banks. The amount of the claims of the domestic banks reflects credits in the amount of approximately $3.45 million taken for their set-off, at the time the proceeding commenced, of the debit balances in the debtors' accounts at such banks. The validity of the set-offs has not been determined. The institutional creditors also have claimed: (i) a security interest in all of the stock of the subsidiaries of Interstate (all of which are debtors in this proceeding) by virtue of a pledge of such stock by Interstate in June 1973, and (ii) that each of such subsidiaries are directly liable to the institutional creditors as a result of guarantees executed by such subsidiaries

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* (continued from page 54)
not to file at that time. However, the Indenture Trustee of the 4% Convertible Subordinated Debentures did file a proof of claim on behalf of the debentureholders, and the amount of this claim is included above. The Indenture Trustee of the 4-5/8% Convertible Subordinated Debentures did not file a proof of claim, and the principal amount and accrued interest on such Debentures as at May 22, 1974 of $445,817 is not included above, although it is a recognized liability of the debtors.

in April 1974 of the debt owed by Interstate to the Institutional creditors.

Senior Subordinated Notes

The amount of these claims, $4,960,742, (which does not include a recognized liability to a $50,000 noteholder who did not file a claim) is essentially in accord with the debtors' books and records except for interest calculations of approximately $6400. These Notes are subordinated to payment of principal and interest on the indebtedness to the institutional creditors. The Notes are also secured by a pledge of the stock of the subsidiaries of Interstate, junior and subordinate, to the aforementioned pledge of such stock to the institutional creditors.

4% and 4-5/8% Convertible Subordinated Debentures

The amount of these claims, $20,255,573, (which does not include a recognized liability of $445,817 to the 4-5/8% debentureholders) is not in dispute. These Debentures are subordinated to payment of principal and interest on the indebtedness to the institutional creditors and to the senior subordinated noteholders.

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Real Estate Claims

The amount of these claims, $106,352,532, is greatly inflated and, as discussed above, as at October 31, 1975 an aggregate of $17,597,883 of such claims had been reduced or expunged. Of the balance, $15,254,892 represent claims filed by mortgagees with respect to operating stores, and it is anticipated that any plan of reorganization would provide that such mortgage debts would be satisfied in accordance with their terms with the mortgagees retaining the mortgages on the properties. The balance of the claims principally relate to claims for damages due to termination of the store leases. Many are duplicate claims filed by both landlords and mortgagees, only one of whom would be entitled to the claim if it is valid. Also, many of the damage claims are clearly in excess of the statutory limits. The accounting personnel of the debtors estimate that these damage claims when finally allowed will not exceed $18 million. Further information on the real estate claims are discussed under "Liquidating the Discount Division and Disposal of Real Estate Claims."

Trade Payables

As at October 31, 1975, 3,628 trade payable claims aggregating $18,184,904 had been filed. As at such date, 1,805 claims aggregating $15,470,770 had been reviewed and

analyzed by the accounting personnel of the debtors and of such amount $2,767,185 of such claims had been reduced by orders of the Court as a result of objections to such claims brought by the Trustees. The accounting personnel estimate that approximately an additional $2,500,000 of the claims analyzed as at October 31, 1975 will be reduced, and no estimate has been made of the amount of the reductions in the balance of $2,714,134 of the trade payable claims which had not been analyzed as at such date.

Expenses Payable

As at October 31, 1975 1,762 expense payable claims aggregating $5,845,405 had been filed. As at such date, 638 claims aggregating $3,118,995 had been reviewed and analyzed by the accounting personnel of the debtors and of such amount $406,090 of such claims had been reduced by orders of the Court as a result of objections to such claims brought by the Trustees. The accounting personnel estimate that approximately an additional $978,597 of the claims analyzed as at October 31, 1975 will be reduced and no estimate has been made of the amount of the reductions in the balance of $2,726,410 of the expense payable claims which had not been analyzed as at such date.

Employee Claims

As at October 31, 1975, 1,758 employee claims aggregating $2,732,286 had been filed and all of such claims had been reviewed and analyzed by the accounting personnel of the debtors. According to the debtors' books and records, 679,499 of such claims should be reduced. Also, approximately $525,000 of the balance of such claims represent damage claims for breach of employment agreements with certain executives, and based on information available to the Trustees, a substantial portion of the alleged damages have been mitigated as a result of the executives obtaining new employment.

Taxes

As at October 31, 1975, 318 claims from taxing authorities aggregating $5,945,826 had been filed. As at such date 271 claims aggregating $5,160,660 had been reviewed and analyzed by the accounting personnel of the debtors. Included in the claims analyzed are claims filed by the Internal Revenue aggregating $3,107,165. As discussed in note 11 to the Consolidated Financial Statements of the debtors for the two years ended February 2, 1975 (Exhibit A to this Report), the Internal Revenue Service has proposed a net deficiency in Federal income taxes for

the debtors for the seven years ended January 31, 1968 in the amount of approximately $3,800,000, giving credit for over assessments during these years. Prior to this proceeding, the debtors had obtained an oral agreement from the Internal Revenue Service to reduce the net deficiency for such years to $1,275,097 ($2,229,455 as the agreed upon deficiency less $954,358 as the agreed upon credit for over assessments). During the time this settlement was negotiated at the Appellate Division of the Internal Revenue Service, the auditing agent proposed a deficiency for the year ended February 2, 1969 in the amount of $1,036,799. Before any action was taken on these deficiencies, this proceeding commenced and negotiations with the Internal Revenue Service terminated. As a result of this proceeding, the Internal Revenue Service is not bound by the proposed settlement. The aforesaid claim filed by the Internal Revenue Service in this proceeding, aggregating $3,107,165, includes claims of $ 1,758,584 as a deficiency for the years 1962-1968. This figure is based on the amounts agreed upon in the settlement discussed above but does not include certain other deficiencies agreed upon in the amount of $472,197 nor does it give credit to the $954,358 agreed upon as the credit for over assessments for these years. The Trustees

assume that this is an inadvertent error and that such credit will be given assuming that the Internal revenue Service will agree with the Trustees to abide by the prior settlement. Similarly, the aforementioned $3,107,165 claims filed by the Internal Revenue Service include claims of $1,036,799 as the proposed deficiency for the year ended February 2, 1969. If the same basis for settling the 1962 through 1968 years can be applied and obtained for this year, these claims should be reduced to approximately $394,647. The remainder of the Internal Revenue Service claims relate to unpaid payroll taxes. Accordingly, the Trustees believe that the aggregate Internal Revenue Service claims of $3,107,165 may be reduced by approximately $1,186,481 to a total of $1,920,684, which amount will receive a priority status in any plan of reorganization.

The accounting personnel of the debtors estimate that of the $2,894,060 of tax claims filed by various taxing authorities other than the InternaL Revenue Service (including both claims analyzed and not analyzed as of October 31, 1975), reductions will approximate $350,000.

Concessionaire Claims

Of the $52,506,330 in concessionaire claims, about $51 million are claims for loss of income as a result of the

termination of the concessions and licenses in connection with the debtors' store closing program. Based on a preliminary analysis of these claims, the Trustees believe that these damage claims will be substantially reduced.

LEGAL PROCEEDINGS PENDING AT MAY 22, 1974

At the time the proceeding commenced in May 1974, there were approximately 200 lawsuits pending against the debtors. Substantially all of these lawsuits were either actions for goods sold and delivered or for services rendered and the plaintiffs in these actions have filed claims therefor in this proceeding, or were actions for personal injury and other tort claims which are covered by insurance. Other lawsuits include actions by licensees for substantial sums, all of which are included in the proofs of claim filed by licensees as discussed above under "Concessionaire Claims."

In connection with Interstate's negotiations with the McCrory Corporation in late 1973 and early 1974, discussed elsewhere in this Report under "Store Closing Program and Crises of 1973", eleven separate actions were commenced, naming Interstate and, in certain cases, one or more directors of Interstate, as defendants. Seven of these actions are share-

holder derivative actions and Interstate is only the nominal defendant. Four of the actions also purport to be class actions, and request from Interstate and others unspecified damages on behalf of shareholders.

All of the lawsuits pending at the time the proceeding commenced were enjoined from further prosecution by Court orders. A number of personal injury and tort actions have been permitted to proceed, since the damages sought are believed to be covered by insurance, and in most of these actions the plaintiffs have agreed to look only to the insurance proceeds for recovery.

After the proceeding commenced two purported class actions were filed which named Interstate, its directors and certain others as defendants.

On June 10, 1974, a purported class action was filed by certain debenture holders on behalf of the holders of Interstate's 4% Convertible Subordinated Debentures, against Interstate, its directors, a former director, certain of its officers, an indenture trustee, and another individual. The complaint alleges fraud and breach of trust in connection with the issuance of Interstate's Senior Subordinated Notes as a result of which the lenders thereunder

allegedly illegally obtained a preferred position to holders of Interstate's 4% Convertible Subordinated Debentures. Damages are sought in the amount of $40,000,000, which amount includes punitive damages of $20,000,000.

On June 12, 1974, a purported class action was filed on behalf of purchasers of Common Stock and 4% Convertible Subordinated Debentures of Interstate from December 1973 until the commencement of this proceeding in May 1974. Interstate, its directors, a former director, certain of its officers, its former independent certified public accountants, an indenture trustee, and another individual were named as defendants. The complaint alleges that the defendants violated the Securities Exchange Act of 1934, rules and regulations promulgated thereunder and the common law of fraud and deceit by, among other things, failing to disclose that in December 1973 Interstate was "devoid of credit", disseminating "bullish" report of Interstate's prospects, proposing a "merger" with McCrory Corp., which merger was "never seriously contemplated" and communicating said information, which was adverse to the position of Interstate, to third parties who, in reliance upon said information, sold securities of Interstate. Damages of $55,000,000 (including punitive damages of

$20,000,000) are sought on behalf of purchasers of Common Stock and 4% Convertible Subordinated Debentures. An additional $20,000,000 of damages is sought on behalf of the debenture holders against the indenture trustee under a separate count of the complaint.

With respect to the aforementioned class actions lawsuits, no action has been taken by the plaintiffs therein to prosecute their claims against Interstate except for the filing of the complaints, and in most cases Interstate has either not appeared nor filed an answer, nor been required to do so. Nor have any proofs of claim been filed by or on behalf of the plaintiffs in these class actions. Accordingly, neither the debtors' nor the Trustees' counsel are able to express an opinion on the merits of the actions.

TAX LOSS CARRYFORWARD

The Trustees have been advised that as of February 2, 1975, the amount of the debtors' tax loss carryforward for Federal income tax purposes, based upon the consolidated income tax returns of the debtors filed through the years ended February 2, 1975, is approximately $95,000,000. This amount will expire during the five year period ended February 2, 1980 approximately as follows:

$ -0-	-	February 1, 1976
$ -0-	-	January 30, 1977
$ 1,000,000	-	January 30, 1978
$ 3,000,000	-	January 29, 1979
$ 91,000,000	-	February 3, 1980

Utilization of this tax loss carryforward will depend, among other things, upon the realization by the debtors or the reorganized debtors of taxable income on a consolidated basis. The tax loss may also be utilized against future income generated by corporations or assets subsequently acquired by the debtors, provided that any such acquisition of corporations or assets is not motivated principally for tax avoidance purposes. The amount and availability of the tax loss may also be affected by the nature of any plan of reorganization approved in this proceeding. The Trustees have also been advised that the amount of the tax loss carry forward was based on Federal income tax returns filed through February 2, 1975. As discussed elsewhere in this Report under "Pre-petition Creditor Claims - Taxes", deficiencies have been assessed with respect to the eight years ended February 3, 1969 and claims have been filed in this proceeding with respect thereto. The amount of the tax loss may change if these deficiencies are

not settled at the amounts referred to therein. In addition, the debtors' income tax returns have not been examined by the Internal Revenue Service for the years subsequent to February 2, 1969, and the amount of the tax loss is subject to any such examination.

For financial reporting purposes, the loss carry-forward as at February 2, 1975 is approximately $115,000,000. The principal difference between the amount for financial and tax purposes results from the recognition of substantial charges for financial accounting purposes applicable to the store closing program of the debtors which will result in tax deductions in subsequent periods when and if such charges are incurred.

TRUSTEES' ADMINISTRATION

The proceeding was converted into a Chapter X proceeding and the trustees were appointed on June 13, 1974, about three weeks after the debtors had filed for an arrangement under Chapter XI and were continued in possession. In the short time available to the debtors-in-possession, they had attempted to obtain bank credit and to restore the debtors' credit position with the trade, but the debtors were not successful.

When the Trustees assumed management of the debtors they were faced with two main tasks: the first and clearly most important was to ensure the viability and, hopefully, the profitability of the continuing operations. The second task was to administer the proper liquidation of the remainder of the discount division. Encompassed within this second task was the disentanglement and disposition of real estate arrangements relating to over 100 store locations throughout the country.

THE CONTINUING OPERATIONS

Toys "R" Us, Inc.

Fortunately for the Trustees and the debtors' estate, the executive personnel of Toys "R" Us remained intact since its management team had the confidence of the suppliers and the banks. However, it was still necessary to convince the suppliers of the creditworthiness of Toys "R" Us and to overcome the inhibitions of the trade to do business on normal terms with a company in a proceeding under the Bankruptcy Act. Due to the highly seasonal nature of the business, it was essential to convince the trade to honor merchandise orders for the Fall and Christmas seasons.

While Toys "R" Us does business with hundreds of suppliers, there are a relatively small number of major toy vendors which account for a majority of the goods purchased by Toys "R" Us and the Trustees were able to develop communication with these vendors. These communications confirmed that the extension of credit was dependent on the Trustees first obtaining adequate assurance that the domestic banks would support the Toys "R" Us operations, and this meant the willingness of the domestic banks to extend new credit. On the other hand, the domestic banks would commit themselves only if the trade returned with normal credit terms. Throughout June and July, 1974 the parties structured and negotiated a satisfactory financial and legal arrangement which enabled Toys "R" Us to operate in the normal course.

On August 1, 1974, the Trustees obtained Court approval and on August 7, 1974 the Trustees entered into a Credit Agreement dated as of July 17, 1974 with the domestic banks which provided Toys "R" Us $10 million credit through December 14, 1974 and reduced amounts to February 15, 1975. Any indebtedness incurred under the Credit Agreement was guaranteed by the toy division debtors and by Interstate and was secured by a first lien and claim on all property

and stock of the toy division debtors, subject to valid liens existing on May 22, 1974. The same structure of guarantees, liens and claims was arranged in favor of the suppliers of goods and services to Toys "R" Us who shared the first lien and claim status, pari passu with the domestic banks. In the summer of 1974 it was not certain whether Toys "R" Us would actually need to draw upon this credit, and, in fact, it never became necessary to do so. However, the support of the domestic banks as evidenced by the Credit Agreement was essential to returning Toys "R" Us to normal operations. This successful format was renewed in early 1975. On February 13, 1975 the Trustees and the domestic banks entered into a new Credit Agreement dated as of January 31, 1975 pursuant to which the banks extended $6 million credit to Toys "R" Us through September 1, 1975, $10 million through December 15, 1976, and a reduced amount to February 15, 1976. During the period of the Trustees' administration in fiscal 1974 Toys "R" Us opened three new stores; one each in Maryland, Michigan and New Jersey; Toys "R" Us was able to substantially complete its capital improvements projects scheduled for the year, and notwithstanding the adverse effects of the curtailment of merchandise and the disruptions caused by the commencement of the reorganization proceeding,

gross revenues exceeded previous years' results, almost each store-for-store revenue increased and net earnings before taxes, before any parent company service charge or allocation of administrative expenses of the Chapter X proceeding, increased to a record $13 million. For the 39 week period ended November 2, 1975 sales on a store-for-store basis have increased in excess of 22% over the comparable period last year, and the results of operations for this period is $1.6 million ahead of last year. Toys "R" Us is a very seasonal business; historically, substantially all profits have been made in the Christmas season. See Exhibit B to this Report for the audited financial statements of Toys "R" Us for the fiscal year ended February 2, 1975 and Exhibit C for the unaudited statement of operations for the 39 week periods ended November 2, 1975 and November 3, 1974.

Department Stores Division

The Trustees' task of rehabilitating the department stores presented greater difficulties than those facing Toys "R" Us. The number of vendors was substantially greater and more diversified and a forum for communicating with creditors as exists within the Toy industry was not available. To many vendors, in terms of credit risk, the department stores were not readily distinguishable from the discount division and,

accordingly, restoring normal credit and the willingness to ship merchandise was a slower and more difficult assignment. The Trustees were able to obtain bank support for this division in late July 1974 by obtaining a $5 million accounts receivable financing from Sterling National Bank & Trust Company of New York. However, as with Toys "R" Us and, except for a two week period, it was not necessary to borrow funds. At the present time, almost all of the vendors are dealing with the department stores on a normal basis.

However, as described above under "Business and Assets of the Debtors - Conventional Department Stores," almost one-half of the department stores were marginal or unprofitable operations and the Trustees have closed 10 stores. Sales from the remaining stores have been less than prior years and in order to achieve profits, the Trustees have reduced costs and improved profit margins. At this time it appears that the department stores have been restored to profitable operations.

Trustee's Examination and Investigation

The information relating to the history of the debtors prior to the commencement of this proceeding was gathered by the Trustee from several sources. It was obtained in the course of his activities in managing the

debtors since June 13, 1974. The Trustee was particularly assisted by the knowledge of the Additional Trustee who was an officer of the debtors since May 1973, and from other officers and employees of the debtors. Much information was available from reports and other documents filed by Interstate with the Securities and Exchange Commission. The Trustee retained Touche Ross & Co. to assist in his investigation, with particular emphasis on the financial condition of the debtors and the internal financial controls of the debtors during the period immediately preceding the commencement of the proceeding. The Trustee obtained authorization under Section 167 of the Bankruptcy Act to examine former officers of the debtors. Counsel for the Trustee interviewed or examined a number of the persons who were the senior executive officers of the debtors during the two years prior to to the commencement of the proceeding. Discussions were also had with officials of the New York Stock Exchange to determine their views on Interstate's compliance with the Exchange's requirements during the period preceeding the filing under the Bankruptcy Act.

The Trustee, his counsel and his accountants have found no evidence of fraud against former management of the debtors. While the Trustee has no present plans for further

examinations of officers or directors of the debtors, it is possible that he will decide to do so at a later date.

During the course of the Trustee's investigation he has discovered bases for asserting claims against third parties. In certain instances, the Trustee has set-off these claims against claims asserted by such parties in this proceeding, in other instances he has commenced separate proceedings with respect thereto, and certain others are under review.

LIQUIDATING THE DISCOUNT DIVISION AND DISPOSING OF REAL ESTATE CLAIMS

This task involved five stages: (i) the decision to close stores, (ii) selling the inventory in Going-Out-Of-Business ("G.O.B.") sales, (iii) disposing of those store fixtures which were the property of the debtors, (iv) dealing with landlords' and/or mortgagees' claims and (v) disposing of real estate interests not related to continuing operations. The first three stages were essentially completed within six months after the Trustees assumed control. The fourth and fifth stages have continued to date. When the Trustees took over operations all of the debtors' Topps stores had completed G.O.B. sales and had closed operations. Forty-seven Topps stores were closed during the period from January 1 to June 8, 1974. G.O.B. sales were in pro-

cess in eight White Front Stores. The Trustees decided to commence G.O.B. sales in the remaining 17 White Front stores and by mid-July all of these stores were closed. The debtors and the Trustees disposed of as much inventory as possible through these G.O.B. sales, and a small amount of unsaleable inventory was sold at auction. During the period from May 22, 1974 - the date the debtors filed their petition under Chapter XI - to the date inventory liquidations were finally completed in September 1974, approximately $6.1 million was realized (after all operating expenses) from liquidating inventory which had a cost basis of approximately $13.8 million. The loss from these sales was fully reserved against in the losses taken for the fiscal year ended February 3, 1974.

In July 1974 the Trustees obtained a Court order authorizing the disposition of all fixtures and other fixed assets - racks, display tables, shelves, and similar items - relating to stores closed or to be closed. Whenever possible, the Trustees tried to sell the fixtures to landlords. As discussed below, an exchange of the fixtures was often negotiated for a landlord's waiver of claims for damages due to termination of the lease, unpaid rent which accrued prior to the proceeding, or use and occupation claims accruing after the proceeding. As of November 1975, the fixtures relating

to 19 stores were sold or disposed of to the landlords in this manner. Fixtures in other stores were sold to third parties in negotiated transactions or sold at auction. The disposition of fixed assets took place throughout the remainder of the 1974 fiscal year and by fiscal year end February 2, 1975 the Trustees had realized approximately $2.175 million in cash from the sale of fixtures.

After the proceeding commenced in May 1974, the debtors-in-possession, and thereafter the Trustees, stopped paying rent on all of the leased discount stores closed or to be closed. This gave rise to a claim for damages by the various landlords for breach of the leases. To the extent that the debtors-in-possession or the Trustees remained in possession of the premises, it also gave rise to a claim against the estate for use and occupation of the premises, which is an administration claim entitled to priority. In addition, many of the landlords of these premises had assigned such leases to mortgagees as collateral security for the mortgage debts on such premises, and a number of these mortgagees have filed claims against the debtors. Also, since the joint ventures in which the debtors were participants were also the debtors' landlords, the joint ventures and the related mortgagees had similar claims. Also, sub-

stantially all the debtors' leases were guaranteed by Interstate and, therefore, a substantial number of landlords have filed claims against multiple debtors.

The general rule for the measure of damages which a landlord could claim for breach of a lease is the excess of the lease rental over the fair rental value of the property for the remainder of the term of the lease, discounted to present value, plus damages under any special covenants in the lease, but limited in all cases to the rent reserved in the lease for the three years after surrender of the premises to the landlord or re-entry by the landlord plus any unpaid accrued rent up to the date of the surrender or re-entry. The Trustees also are advised that any claim for damages based on the Interstate guarantee is similarly limited.

Since the potential liability to the debtors for general claims of landlords exceeded $56,000,000 and as at October 31, 1975 proofs of claim for $106,352,532 were filed by landlords and mortgagees, the disposition of such claims has been and continues to be a major undertaking of the Trustees.

Disposing of Joint Venture Interests

The "Big Eye" Claims

The most substantial joint venture interest of

the debtors involved various debtors and Beneficial Standard Life Insurance Company or its affiliates ("Beneficial"). The debtors were involved with Beneficial in 21 properties which included 19 White Front stores, one Topps store and one warehouse. Fifteen of the properties represented joint ventures wherein one of the debtors and Beneficial each owned one-half of the stock of a corporation (Big Eye Corporation), which in turn owned all of the stock of 15 corporations, each of which was the owner and landlord of a store property which leased a store to one of the debtors. These 15 corporations are referred to as the "Big Eye" companies. Beneficial was the owner and landlord of the other six properties and leased the stores to one of the debtors. Interstate guaranteed the lease obligations to the respective landlords of all of these stores. Also, since all of these properties were subject to mortgages, the landlords would often assign such leases to the mortgagees as collateral security for the mortgage obligations.

The debtors closed seven of these White Front stores in late 1972 or early 1973 and the remaining thirteen in July 1974. The Topps store was closed in March 1974. The aggregate monthly rentals on these properties, including real estate tax obligations of the debtors under the leases, was approximately $477,000. The potential maximum aggregate claim for

damages for breach of the leases (including pre-petition accrued but unpaid rent) was approximately $17,000,000. The debtors were 50% partners on joint ventures and as such were the beneficiaries of approximately $6.4 million of such claims. Therefore, the potential maximum aggregate liability to the estate was approximately $10.6 million. In addition, the debtors and the Trustee had continued in possession of most of the premises through July 1974 and, therefore, there was a potential use and occupation claim estimated at over $550,000, which amount reflects a credit for 50% of any claim relating to a property where the debtors owned a 50% interest in the landlord.

In July 1974 shortly after the proceeding commenced, Beneficial and the Big Eye companies moved in the Bankruptcy Court to fix the use and occupation value of the above 21 premises, 12 of which were still operating stores conducting G.O.B. sales. The Trustees were able to settle the use and occupation claims of Beneficial and the Big Eye companies with respect to all of these properties on the following terms: the leases were disaffirmed, the Trustees were not required to pay any use and occupation costs, Beneficial and the Big Eye companies waived all claims for damages based on the termination of the leases, and the debtors received approximately $150,000

as their share of the net proceeds of the sale of the warehouse. The Trustees also retained title to the fixtures in all the properties and subsequently sold the fixtures for $754,000. In exchange, the debtors transferred their interest in 50% of the stock of Big Eye Corporation, thereby transferring their rights to any underlying equity in 15 of the properties.

The only outstanding real estate claims relating to these 21 properties were claims filed by five mortgagees relating to five stores, which claims were based on assignments of the leases by the landlords as security for the mortgage indebtedness. These claims as filed aggregated approximately $7 million. All but one of these claims, for about $800,000, have been expunged by order of the Court as a result of objections made by the Trustees. None of the other mortgagees relating to the remaining stores have filed claims, and their time to file proofs of claim has expired.

Other Joint Ventures

At the date the proceeding commenced, the debtors were involved in joint ventures, other than the Big Eye ventures, relating to 16 store properties. In some cases the debtor's store was the only property owned by the joint venture and in other cases the store was part of a larger shop-

ping center owned by the joint venture. As discussed above, the debtors had interests in these ventures as both landlords and tenants, and where stores were closed and leases terminated (as was the case in almost all except for a few instances where the stores were subleased to third parties) the debtors were in the anomalous position of having claims against themselves. Again, Interstate had usually guaranteed the lease obligations of the debtors which were the tenants. Most of these joint ventures have involved lengthy and complicated negotiations with the joint venture partners to terminate the relationship, often in exchange for waivers of claims by the joint ventures. As the date of this Report, six of the debtors' joint venture interests have been disposed of, and negotiations are in process to dispose of four others. In addition, the debtors have joint venture interests in parcels of undeveloped land adjacent to former discount stores.

Landlords' and Mortgagees' Claims Relating To Other Closed Stores

Landlords and mortgagees have filed claims arising out of an additional 92 stores other than those discussed above. As of the date of this Report the claims relating to 20 of these stores have been waived by either the landlord or the mortgagee and/or expunged by order of the Court. The claims relating to about 10 other stores have been reduced by

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order of the Court. The Trustees expect to object to many of the remaining claims and anticipate that the claims as finally allowed will be substantially less than the amount of the claims filed.

TRUSTEE'S RECOMMENDATIONS CONCERNING CONTINUANCE OF THE BUSINESS AND RE-ORGANIZATION OF THE DEBTORS

It is the conclusion of the Trustee that the debtors can and should be reorganized. There is no doubt that the operations of the highly profitable Toys "R" Us division should be continued. At this time it appears that the conventional department stores division has been restored to profitability and that it should also be continued, and that it could contribute valuable assets and earning capacity to the reorganized debtors. The Trustee's conclusions as to the department stores division should be more definitive when the results of operations for this fiscal year ending February 1, 1976 are available and analyzed. The earnings from the continuing operations, sheltered by the substantial Federal tax loss carry-forward, should provide the basis for a viable and ongoing corporate entity capable of continued earnings, and the basis for a plan of reorganization which is fair, equitable and also feasible.

The Trustee requests, and notice is hereby given in accordance with Section 167(6) and Rule 10-208 under the

Bankruptcy Act, that all interested persons submit suggestions to the Trustee on or before March 1, 1976 regarding a plan or plans of reorganization for the debtors.

The information contained in this Report, particularly the financial information contained in the Exhibits, should be of assistance in formulating suggestions for any plan or plans or reorganization.

FURTHER PROCEDURE IN THE REORGANIZATION PROCEEDING

The Bankruptcy Act imposes on the Trustee the duty to prepare a plan or plans of reorganization or to report to the Court why a plan cannot be effected. The Bankruptcy Act requires that such a plan be "fair, equitable and feasible." This statutory language has come to embody certain procedures and standards which must be satisfied before a plan can be submitted to, and approved by, the Court. The terms "fair and equitable" require first that the Trustee place a value on the debtors. The Supreme Court of the United States has established the standard for determining value by requiring that an estimate be made of the reasonable foreseeable earnings of the debtors and capitalizing those earnings at an appropriate rate. This requires, as the Supreme Court stated in the leading case of Consolidated Rock Products Co. v. Dubois

312 U.S. 510 (1941): "a prediction as to what will occur in the future, an estimate, as distinguished from mathematical certitude, is all that can be made. But that estimate must be based on an informed judgment which embraces all facts relevant to future earning capacity and hence to present worth, including, of course, the nature and condition of the properties, the past earnings record, and all circumstances which indicate whether or not that record is a reliable criterion of future performance."

The second important aspect of the fair and equitable test relates to the standard for distribution under a plan. This standard has come to be known as the "absolute priority rule." This rule requires that no class of creditors participates in the debtors' assets until all creditors senior to that class have received "full compensation" for the "value" of their claims. "Full compensation" does not require that creditors be paid in cash. Similarly, shareholders may participate in the reorganized entity only if there has been a determination that the debtors, as reorganized, are solvent. "Feasibility" of a plan relates to the reorganized entity's financial ability to carry out the terms of the plan and to operate as a going concern.

The Trustee, at this time, has not made a determination as to whether to submit a plan which will provide for

the substantive consolidation of all the debtors, or a separate plan or plans for each debtor or group of debtors. There are 189 separate debtors in this proceeding. A substantive consolidation would treat all the debtors as one entity for the purpose of evaluation of assets and of distribution to creditors, as discussed above. The preliminary analysis of the Trustee is that a separate plan or plans for each debtor would present a myriad of problems both in evaluation of assets, classification of claims and distribution to creditors that may not be readily capable of solution or, if capable, would unduly delay the formulation and implementation of any plan or reorganization. In addition, as discussed above under "Liabilities of the Debtors - Pre-petition Creditor Claims," there presently remain a substantial number of claims aggregating many millions of dollars which will require objections in Court and probably extensive litigation. The status and magnitude of these unresolved claims are an important factor in the Trustee's formulation of a plan or plans of reorganization.

After the Trustee analyzes all responses to the notice contained herein, at the appropriate time he will prepare and file with the Court a plan or plans of reorganization. Each creditor and stockholder of the debtors and

Other interested parties will be given notice of the hearing on such plan at which time they will have an opportunity to object to such plan and to offer amendments or to propose their own plans. At the conclusion off that hearing, the Court will refer any plans it regards as worthy of consideration to the Securities and Exchange Commission for advisory reports thereon. After the Court has received the views of the Securities and Exchange Commission, it will determine whether any of such plans is fair, equitable and feasible and complies with the Bankruptcy Act, and if it finds this to be the case, it will enter an order approving a plan or plans and will fix a time whith which creditors and stockholders affected by the plan or plans may accept or reject them. In order to assist the Court in making its findings, the Trustee will offer evidence relating to the financial conditions of the debtors, and expert opinion on the value of the assets of the debtors.

Upon approval by the Court of the plan or plans, the Trustees will mail to all creditors and stockholders who are affected thereby a copy of the plan or plans, and other pertinent items. All persons affected by any such plans will be asked to vote thereon. If any such plan is accepted in writing by creditors holding two-thirds in

amount of the claims filed and allowed in each class and, if Interstate or the consolidated debtors, as the case may be, are not insolvent, by stockholders of Interstate, the Court will fix a hearing upon notice to all interested parties for consideration of confirmation of any such plan and of such objections as may be made to the confirmation. Following confirmation, steps will be taken to effect the consummation of any such plan and generally wind up the proceeding. It is possible that a plan could be confirmed before all objections to claims and lawsuits involving the debtors have been resolved. Any such plan would take this into consideration and would incorporate provisions for the treatment of such unresolved matters.

The foregoing is intended merely to advise the creditors and stockholders in general terms of the procedure provided by Chapter X of the Bankruptcy Act. It is not intended to be definitive or all-inclusive and persons who may be affected by the reorganization proceeding may desire to consult their own counsel with regard thereto.

The information contained in this report has been obtained from sources deemed reliable, but no factual information is to be construed as a representation.

Dated: New York, New York
December 15, 1975

Respectfully submitted,

Joseph R. Crowley
Independent Trustee

SHEA GOULD CLIMENKO KRAMER & CASEY
330 Madison Avenue
New York, New York 10017
Attorneys for the Trustees

Exhibit A

Consolidated Financial Statements of Interstate Stores, Inc. and subsidiaries for the fiscal years ended February 2, 1975 and February 3, 1974:

Report to the Trustees of Touche Ross & Co. dated May 28, 1975

Consolidated Balance Sheet

Statement of Consolidated Operations

Consolidated Statement of Stockholders Equity/ Deficiency in Assets

Consolidated Statement of Changes in Financial Position

Notes to Consolidated Financial Statements

Exhibit A

TOUCHE ROSS & CO.

1633 BROADWAY
NEW YORK, NEW YORK 10019

May 28, 1975

Mr. Joseph R. Crowley and Mr. Herbert B. Siegel
As Trustees of Interstate Stores, Inc.
Under Chapter X of the Federal Bankruptcy Act

We have examined the consolidated balance sheet of Interstate Stores, Inc. and subsidiaries as of February 2, 1975 and the related statements of operations, deficiency in assets and changes in financial position for the year (52 weeks) then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. The financial statements for the year ended February 3, 1974 were examined by other independent certified public accountants (Note 23).

As more fully discussed in Note 2, on May 22, 1974, the Company and its subsidiaries filed petitions for arrangement with creditors under Chapter XI of the Federal Bankruptcy Act. On June 13, 1974, the Company and its subsidiaries amended the petitions in order to transfer the proceedings to Chapter X of the Federal Bankruptcy Act and to the Court appointment of trustees. It is the Trustees' intentions ultimately to propose a Plan of Reorganization for the Company and its subsidiaries. No Plan has been developed at this time. The Company and its subsidiaries, prior to filing the petitions for arrangement, had sustained substantial losses from operations during the two years ended February 3, 1974 and, as described in Note 2, had significantly contracted their operations by the closing of stores. For the year ended February 2, 1975, the Company operated profitably. The financial statements referred to above have been prepared on the basis of the continuation of the Company and its subsidiaries as a going concern, except that interest on certain interest-bearing indebtedness has not been accrued since the date of filing the petition under the Federal Bankruptcy Act.

Continuation of the Company as a going concern and realization of its assets and liquidation of its liabilities are dependent upon the following:

a. The formulation of a Plan of Reorganization and its approval by the Court (which could, among other things, result in significant adjustments in the amounts of assets and liabilities as shown in the accompanying balance sheet at February 2, 1975).

b. The ability to obtain the necessary financing, if required, under a Plan to support its continuing operations.

c. The sustained profitability of its continuing operations.

d. The ability to maintain existing vendor credit and to obtain any additional credit which may be necessary.

The eventual outcome of these matters is not presently determinable.

The Company has not yet completed its investigation of differences between amounts owed, as of the date on which the Company filed petitions under Chapter XI of the Federal Bankruptcy Act (May 22, 1974), as stated by the vendor claims and the amounts as shown in the accounting records of the Company. The amount provided in the consolidated financial statements reflects the liabilities on the Company's books and records and may be subject to adjustment upon resolution of these differences.

As set forth in Note 5, reserves had been provided in prior years for future costs and losses to be incurred in connection with store closing programs. At February 2, 1975, reserves aggregating $24,476,000 exist to cover the remaining losses that will result from this earlier decision. The ultimate amount of such losses is not presently determinable.

In addition, it is not possible to presently determine the ultimate outcome of litigation (Note 22) and tax matters (Notes 11 and 12).

Because of the material uncertainties relating to the matters described in the preceding paragraphs, many of which result from the Company's present status under the Federal Bankruptcy Act, we are unable to and do not express an opinion on these financial statements.

Touche Ross & Co.

Certified Public Accountants

MR. JOSEPH B. CROWLEY AND MR. HERBERT B. SIEGEL

AS TRUSTEES OF INTERSTATE STORES, INC.

AND SUBSIDIARY COMPANIES

(Under Chapter X of the Federal Bankruptcy Act) (Note 2)

CONSOLIDATED BALANCE SHEET

(000's omitted)

ASSETS

	February 2, 1975	February 3, 1974
CURRENT ASSETS:		
Cash	$ 4,052	$ 12,408
Certificates of deposit	34,600	-
Accounts receivable - net (Note 6)	10,631	17,026
Refundable federal income taxes	608	608
Merchandise inventories (Note 1)	38,066	70,779
Fixed assets held for sale - net of provision for loss on disposal of $4,047 and $39,108 (Note 7)	16,734	23,072
Prepaid expenses and other	875	3,243
TOTAL CURRENT ASSETS	105,566	127,136
PROPERTY AND EQUIPMENT - net (Notes 1 and 8)	27,471	27,627
EXCESS OF COST OVER NET ASSETS OF SUBSIDIARIES ACQUIRED (Note 1)	14,651	14,651
OTHER ASSETS, including investments in joint ventures and 50%-owned companies (Note 9)	2,410	3,807
	$150,098	$173,221

LIABILITIES AND DEFICIENCY IN ASSETS

	February 2, 1975	February 3, 1974
CURRENT LIABILITIES:		
Notes and debentures payable (Notes 3 and 14)	$ -	$ 95,147
Current instalments of mortgages payable - continuing operations (Notes 3 and 15)	331	45[illegible]
Mortgages payable applicable to fixed assets held for sale (Notes 3 and 16)	-	18,65[illegible]
Accounts payable - trade	8,076	27,890
Accrued expenses, taxes other than federal income taxes and sundry liabilities (Notes 3 and 10)	6,932	15,027
Reserve for federal income taxes (Notes 3 and 11)	-	1,050
Reserve applicable to store closing programs (Note 5)	-	41,60[illegible]
Current liabilities - post petition	15,339	199,805
Estimated claims under Chapter X reorganization proceeding (Note 3)	135,005	-
Other liabilities under Chapter X reorganization proceeding (Note 4)	20,380	-
TOTAL CURRENT LIABILITIES	170,724	199,805
MORTGAGES PAYABLE (Note 15)	5,583	6,09[illegible]
DEFERRED ITEMS	579	1,670
COMMITMENTS AND CONTINGENCIES (Notes 2, 3, 4, 11, 17 and 22)		
DEFICIENCY IN ASSETS:		
Common stock, stated at par value of $1 per share (including $1,271,000 retained as capital by the Board of Directors) (Note 18): Authorized, 10,000,000 shares Issued, 5,474,857 shares	6,746	6,746
Additional paid-in capital	48,970	48,970
Deficit	(82,480)	([illegible]0,617)
	(26,764)	(34,1[illegible])
Treasury stock, at cost - 5,800 shares	(24)	(2[illegible]
	(26,788)	(34,1[illegible]
	$150,098	$173,[illegible]21

See notes to consolidated financial statements

TOUCHE ROSS & CO.

MR. JOSEPH R. CROWLEY AND MR. HERBERT B. SIEGEL

AS TRUSTEES OF

INTERSTATE STORES, INC. AND SUBSIDIARY COMPANIES

(Under Chapter X of the Federal Bankruptcy Act) (Note 2)

STATEMENT OF CONSOLIDATED OPERATIONS

(000's omitted)

	Fiscal year ended	
	February 2, 1975	February 3, 1974
Net sales of continuing operations, including leased departments (Note 5)	$188,262	$203,702
Other income - net	535	766
	188,797	204,468
Costs and expenses:		
Cost of sales, including occupancy and buying costs (Note 5)	133,033	143,876
Selling, advertising, general and administrative	42,234	43,456
Depreciation and amortization	2,211	2,346
Interest	3,170	8,190
Provision for loss on department stores to be closed (Note 5)	-	1,961
	180,648	199,829
Earnings from continuing operations before other credits and deductions, income taxes and extraordinary credits	8,149	4,639
Other (credits) and deductions (Note 19):		
Interest income	(1,008)	-
Bankruptcy administrative costs	700	-
	(308)	-
Earnings from continuing operations before income taxes and extraordinary credits	8,457	4,639
Provision for income taxes (Note 20)	4,800	2,621
Earnings from continuing operations before extraordinary credits	3,657	2,018
Operations discontinued and to be discontinued (Note 5):		
(Loss) from operations of businesses discontinued and to be discontinued, net of income taxes of $2,982	-	(24,781)
Provision for loss on disposal of businesses discontinued and to be discontinued	-	(69,580)
	-	(94,361)
Earnings (loss) before extraordinary credits	3,657	(92,343)
Extraordinary credits (Note 20)	3,900	-
Net earnings (loss)	$ 7,557	$(92,343)
Net earnings (loss) per share of common stock (Note 21):		
Earnings from continuing operations before extraordinary credits		$ .37
(Loss) from operations discontinued and to be discontinued		(17.25)
(Loss) before extraordinary credits		(16.88)
Extraordinary credits		-
Net (loss)		$(16.88)
Cash dividends per share of common stock		$ -

See notes to consolidated financial statements

TOUCHE ROSS & CO.

MR. JOSEPH D. CROWLEY AND MR. HERBERT B. SIEGEL

AS TRUSTEES OF INTERSTATE STORES, INC.

AND SUBSIDIARY COMPANIES

(Under Chapter X of the Federal Bankruptcy Act) (Note 2)

CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY/DEFICIENCY IN ASSETS

TWO YEARS ENDED FEBRUARY 2, 1975

(000's omitted)

	Common stock, $1 par value				Additional paid-in capital	Retained earnings/ (deficit)
	Issued		In treasury			
	Shares	Amount	Shares	Amount		
Balance, January 28, 1973	5,474.7	$6,746*	5.8	$24	$48,919	$ 2,306
Portion of proceeds of the senior subordinated notes allocated to the warrants issued in connection therewith	-	-	-	-	50	-
Common stock issued upon conversion of debentures	.2	-	-	-	1	-
Net (loss)						(92,343)
Balance, February 3, 1974	5,474.9	6,746	5.8	24	48,970	(90,037)
Net earnings	-	-	-	-	-	7,557
Balance, February 2, 1975	5,474.9	$6,746	5.8	$24	$48,970	$(82,480)

*Includes $1,271 retained as capital by the Board of Directors

See notes to consolidated financial statements

TOUCHE ROSS & CO.

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MR. JOSEPH R. CROWLEY AND MR. HERBERT P. SIEGEL
AS TRUSTEES OF
INTERSTATE STORES, INC. AND SUBSIDIARY COMPANIES
(Under Chapter X of the Federal Bankruptcy Act) (Note 2)

CONSOLIDATED STATEMENT OF CHANGES IN FINANCIAL POSITION
(000's omitted)

	Fiscal year ended	
	February 2, 1975	February 3, 1974
SOURCE OF FUNDS:		
Continuing operations:		
Earnings before extraordinary credit	$ 3,657	$ 2,018
Add charges not requiring outlay of working capital:		
Depreciation and amortization	2,211	2,346
Provision for loss on disposal of property and equipment of department stores being closed	-	1,000
Other	572	513
Funds provided from continuing operations, exclusive of extraordinary items	6,440	5,877
Extraordinary credit, utilization of net operating loss carryforward	3,900	-
Decrease in equity in joint ventures	859	-
Increase in notes and debentures payable	-	28,958
Increase in mortgages payable	-	1,125
Fixed assets sold or reclassified to current assets	186	21,017
Decrease in other assets	555	882
	11,940	57,859
APPLICATION OF FUNDS:		
Operations discontinued and to be discontinued:		
Loss on operations of businesses discontinued and to be discontinued	-	24,781
Provision for loss on disposal of businesses discontinued and to be discontinued	-	69,580
Deduct/(add) charges not requiring outlay of or (providing) working capital:		
Provision for loss on disposition of property and equipment	-	29,496
Provision for loss on investments in and advances to 50%-owned corporations and joint ventures	-	1,105
Depreciation and amortization	-	3,905
Deferred federal income taxes	-	(365)
Other - net	-	(131)
Funds applied to discontinued operations	-	60,351
Acquisition of property and equipment	2,255	6,385
Noncurrent liabilities transferred to "Other claims under Chapter X bankruptcy proceedings"	998	-
Notes and debentures - classified as current liabilities	-	95,147
Payment, liquidation and current maturities of mortgages payable	508	477
Mortgages payable applicable to fixed assets held for sale - classified as current liabilities	-	18,652
Current portion of reserve applicable to store closing programs	-	1,500
Other - net	668	2,632
	4,429	185,144
INCREASE/(DECREASE) IN WORKING CAPITAL	$ 7,511	$(127,285)
INCREASE/(DECREASE) IN WORKING CAPITAL COMPONENTS:		
Cash	$ (8,356)	$ (452)
Certificates of deposit	34,600	-
Short-term investments	-	(1,253)
Accounts receivable	(6,395)	(3,552)
Refundable federal income taxes	-	(5,418)
Merchandise inventories	(32,713)	(30,233)
Fixed assets held for sale	(6,338)	19,984
Prepaid expenses and other	(2,368)	172
Notes and debentures payable	95,147	(95,147)
Current instalments of mortgages payable - continuing operations	104	713
Mortgages payable applicable to fixed assets held for sale	18,652	(18,029)
Accounts payable - trade	19,814	26,666
Accrued expenses, taxes other than federal income taxes and sundry liabilities	8,095	7,968
Reserve for federal income taxes	1,050	-
Reserve applicable to store closing programs	41,604	(27,704)
Estimated claims under Chapter X bankruptcy proceedings	(135,005)	-
Other liabilities under Chapter X bankruptcy proceedings	(20,782)	-
INCREASE/(DECREASE) IN WORKING CAPITAL	$ 7,511	$(127,285)

See notes to consolidated financial statements

TOUCHE ROSS & CO.

MR. JOSEPH R. CROWLEY AND MR. HERBERT B. SIEGEL

AS TRUSTEES OF

INTERSTATE STORES, INC. AND SUBSIDIARY COMPANIES

(Under Chapter X of the Federal Bankruptcy Act)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

a. Basis of presentation

The accompanying consolidated financial statements have been prepared on a "going-concern basis" (except that interest on certain indebtedness has not been accrued since the date of filing the petition under the Federal Bankruptcy Act) which contemplates the realization of assets and the liquidation of liabilities in the ordinary course of business (Note 2).

Continuing operations consist of Toys "R" Us operations and the department store operations.

b. Principles of consolidation

The accompanying consolidated financial statements include the accounts of Interstate Stores, Inc. and its subsidiaries and all majority-owned joint ventures. All material intercompany balances and transactions have been eliminated.

c. Merchandise inventories

Merchandise inventories are stated at the lower of cost or market as determined principally by the retail inventory method.

d. Property and equipment

Property and equipment are recorded at cost and depreciation and amortization are provided on a straight-line basis over the estimated useful lives of the assets or, where applicable, the terms of the respective leases, whichever is shorter.

The following table summarizes the useful lives of the major classes of assets:

	Years
Buildings	20 to 40
Furniture and equipment	4 to 12-1/2
Leaseholds and leasehold improvements	12-1/2 to 25

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Additions and betterments are capitalized. Expenditures for maintenance and repairs are charged to expense as incurred.

The cost of assets sold, retired or otherwise disposed of and the related amounts of accumulated depreciation are eliminated from the accounts in the year of disposal. Any resulting gains or losses are credited or charged to operations.

e. Amortization of excess of cost over net assets acquired

The excess of cost over net assets acquired, incurred in connection with the acquisition of the retail toy chain operations prior to October 31, 1970, was determined to represent the cost of intangible assets with an indeterminate life and is not being amortized. In the opinion of the Trustees, there has been no diminution in value since the date of acquisition.

f. Deferred federal income taxes

Deferred taxes arise principally from (i) the use of accelerated methods of depreciation for tax purposes whereas the straight-line method is used for financial statements and (ii) the deferral and amortization of preopening store costs for financial statements whereas they are expensed for tax purposes.

g. Investment tax credit

Benefits from the investment tax credit are recognized in the year utilized, under the flow-through method.

2. REORGANIZATION PROCEEDING

On May 22, 1974, the Company and its subsidiaries filed petitions under Chapter XI of the Federal Bankruptcy Act. On June 13, 1974, the Company and its subsidiaries consented to a transfer of the proceedings to Chapter X of the Federal Bankruptcy Act.

Under the order approving the Chapter X proceedings, the Court appointed an independent Trustee and an additional Trustee, who are authorized to operate the business and manage the property of the Company. The Trustees are vested with title to all of the property of the Company and are directed to investigate the desirability of continuing the operations of the Company and all other matters relevant to formulating a Plan of Reorganization.

It is the Trustees' intentions to ultimately propose a Plan of Reorganization for the Company and its subsidiaries. No Plan has been developed at this time.

The Company and its subsidiaries had sustained substantial losses from operations during the two years ended February 3, 1974 and had significantly contracted their operations by the closing of stores

Continuation of the Company as a going concern including realization of its assets and liquidation of its liabilities is dependent upon the following:

(a) The formulation of a Plan of Reorganization and its approval by the Court (which could, among other things, result in significant adjustments in the amounts of assets and liabilities as shown in the accompanying balance sheet at February 2, 1975).

(b) The ability to obtain the necessary financing, if required, under a Plan to support its continuing operations.

(c) The sustained profitability of its continuing operations.

(d) The ability to maintain existing vendor credit and to obtain any additional credit which may be necessary.

The eventual outcome of these matters is not presently determinable.

3. ESTIMATED CLAIMS UNDER CHAPTER X REORGANIZATION PROCEEDINGS

As of February 2, 1975, estimated claims consist of:

	(000's omitted)
Notes and debentures payable	$ 91,677
Mortgages payable, applicable to fixed assets held for sale	15,166
Accounts payable	18,829
Accrued expenses and other liabilities	4,412
Reserve for federal income taxes, including accrued interest	1,625
Other taxes	3,296
	$135,005

The Company is reviewing all creditors' claims filed with the Court and investigating such claims where the amount of a claim differs from the amount on the Company's books and records. All such differences (which are substantial) have not as yet been resolved. The amount presented in the consolidated financial statements reflects the balances on the Company's books and records and may be subject to adjustment.

No interest has been accrued since May 22, 1974, the date of filing the petition under the Federal Bankruptcy Act, on any of the interest bearing indebtedness.

4. OTHER LIABILITIES UNDER CHAPTER X REORGANIZATION PROCEEDINGS

As of February 2, 1975, other liabilities consist of:

	(000's omitted)
Disaffirmed lease obligations	$16,329
Disaffirmed employment agreements and executory contracts	998
Reserve applicable to termination of license agreements with concessionaires	1,540
Other reserves	1,513
	$20,380

Subsequent to June 13, 1974, the Trustees disaffirmed lease obligations as follows: 96 discount stores, 8 department stores, and 9 warehouses. From June 14, 1974 to May 28, 1975, the Trustees have been able to obtain releases from landlords at 48 locations. The releases related to administrative claims for use and occupancy cost and general claims. Settlement made for releases included cash payments of $120,000 and transfer of furniture, fixtures and leasehold improvements with a net book value of $143,000 (net of reserves established in the prior year) and transfer of interest in a joint venture with a carrying value of $140,000 at the transfer date.

Under the provisions of Chapter X of the Federal Bankruptcy Act, landlords are entitled to claim, as damages, an amount not exceeding a maximum of three years' rental payments, including rental payments in lieu of real estate taxes, insurance, escalation clauses, etc., to the extent included in lease agreements. The maximum potential liability for the remaining disaffirmed leases amounts to approximately $34,000,000. Such claims may be reduced by settlements or litigation. The amount provided, as shown above, represents the Trustees' estimate of the maximum amount that would ultimately be payable to landlords with respect to these claims.

The liability for disaffirmed employment contracts and executory contracts represents the amounts recorded in the Company's records as of February 2, 1975; however, claims have been filed in excess of the recorded amounts. These differences have not yet been resolved. Accordingly, the amount on the Company's books and records may be subject to adjustments.

5. RESERVES APPLICABLE TO STORE CLOSING PROGRAMS

During the two fiscal years ended February 3, 1974, management adopted several programs, providing, among other things, for the closing of all of its discount stores, and closing of selected department stores. Provisions were recorded during the two years for costs and losses to be incurred in relation to store closing programs, as follows:

Fiscal year ended	
February 3, 1974	$ 71,541,000
January 28, 1973	40,284,000
	$111,825,000

The amount for the fiscal year ended February 3, 1974 includes a $1,961,000 provision for loss on department stores to be closed.

As of February 2, 1975, the Company has substantially completed the closing of its discount division (Topps and White Front) stores and has closed six of the department stores. The costs and losses in relation thereto have been charged against the above mentioned reserves.

For the years ended February 3, 1974 and February 2, 1975, the six department stores had sales of approximately $7,000,000 and $3,000,000, respectively; results of operations, before applicable interest and home office expenses, were approximately on a break-even basis in 1974 and a loss of $200,000 in 1975.

Further, since Interstate was not able to obtain merchandise in sufficient quantities to operate its department store operations in the normal course of business until satisfactory financing was obtained from trade and institutional sources, an additional reserve of $1,738,000 was charged to cost of sales for contemplated future inventory markdowns at February 3, 1974. During the year ended February 2, 1975, as less markdowns were required than initially contemplated, the reserve was reduced by $461,000, and a credit made to cost of sales for such amount.

The reserve for store closings is composed of the following:

	February 2, 1975	February 3, 1974
	(000's omitted)	
Loss on investments and advances to 50%-owned corporations and joint ventures	$ 1,047	$ 1,105
Loss on disposal of fixed assets	4,047	39,108
Reserves applicable to store closing program, including liability for disaffirmed lease obligations	19,382	41,604
	$ 24,476	$ 81,817

The reserve applicable to store closing programs at February 3, 1974 included (i) the estimated losses on realization for liquidation of inventories, (ii) the Trustees' estimate of losses to be incurred for the disaffirmation of leased facilities, (iii) a provision for losses from operations during the phaseout period, (iv) a provision for other losses to be incurred upon the liquidation of the remaining assets of the discontinued businesses, and (v) a provision for losses to be incurred for the termination of license agreements with concessionaires. As of February 2, 1975, the major unresolved matter is the ultimate amount of lease settlements to be resolved by the Trustees.

6. ACCOUNTS RECEIVABLE

	February 2, 1975	February 3, 1974
	(000's omitted)	
Trade customers	$ 6,601	$ 9,665
Less allowance for doubtful accounts	270	291
	6,331	9,374
Other:		
Amounts due from concessionaires	2,247	2,795
Due from vendors	878	3,397
Due on insurance claims	1,438	475
Due on sale of fixed assets	156	715
Sundry	1,234	1,579
	5,953	8,961
Less allowance for doubtful accounts	1,653	1,309
	4,300	7,652
	$ 10,631	$ 17,026

7. FIXED ASSETS HELD FOR SALE

Fixed assets, relating to stores closed and to be closed, no longer used in operations and held for sale are as follows:

	February 2, 1975	February 3, 1974
	(000's omitted)	
Land	$ 6,869	$ 7,711
Buildings	12,314	14,894
Furniture and equipment	3,965	46,476
Leasehold and leasehold improvements	1,751	20,663
	24,899	89,744
Less accumulated depreciation and amortization	4,118	27,564
	20,781	62,180
Less reserve for loss on disposal	4,047	39,108
	$ 16,734	$ 23,072

Any gains or losses which result from the sale or other disposal of these assets are credited or charged to the reserves provided therefor. See Note 16 for mortgages applicable to these assets.

8. PROPERTY AND EQUIPMENT

	February 2, 1975	February 3, 1974
	(000's omitted)	
Land	$ 4,073	$ 4,224
Buildings	8,931	8,325
Furniture and equipment	15,768	15,292
Leaseholds and leasehold improvements	10,265	9,967
	39,037	37,808
Less accumulated depreciation and amortization	11,566	10,181
	$ 27,471	$ 27,627

9. JOINT VENTURES AND 50%-OWNED COMPANIES

Substantially all properties of the 50%-owned corporations and joint ventures in which the Company is involved are leased, in whole or in part, by Interstate stores whose operations have been discontinued. Substantially all of the related leases have been disaffirmed. Although the Trustees cannot presently determine the amount of losses which may be incurred by these entities resulting from the disaffirming of the leases, a reserve equal to 50% of the investment in and advances to these entities has been provided in 1974 and 1975. Amounts realized during 1975 which were in excess of the estimated net realizable value have been credited to the reserve account.

The investment in these entities is represented by net advances to the entities plus the Company's share in the results of their operations and is included in the accompanying balance sheet as follows:

	February 2, 1975	February 3, 1974
	(000's omitted)	
Net investment	$ 1,696	$ 2,210
Less reserve for loss	1,047	1,105
Other assets	$ 649	$ 1,105

As at their respective fiscal year-ends (December 31 or January 31), net fixed assets and mortgages (including $826,576 at February 2, 1975 as to which the Company is contingently liable) of the above-mentioned entities, not included in the accompanying balance sheet, follow:

	February 2, 1975	February 3, 1974
	(000's omitted)	
Net fixed assets	$20,481	$51,624
Mortgages	$19,012	$51,064

The mortgages bear interest varying from 5.3% to 10.25% and are payable in varying instalments with final payments in fiscal years ending in 1986 through 2003.

10, ACCRUED EXPENSES, TAXES OTHER THAN INCOME TAXES, AND SUNDRY LIABILITIES

	February 2, 1975	February 3, 1974
	(000's omitted)	
Salaries, bonuses and other compensation	$ 609	$ 1,932
Taxes accrued and withheld	1,758	4,791
Interest	20	1,324
Amounts due to leased departments	-	1,098
Advertising	504	1,420
Bankruptcy administrative costs	861	-
Contributions under retirement and profit-sharing plans	900	763
Sundry	2,280	3,699
	$ 6,932	$15,027

The Company has a noncontributory retirement income plan, based upon profits, for eligible employees. This plan is subject to amendment, modification or termination at the discretion of the Company's Board of Directors, except that a participant's vested interest may not be reduced by any such amendment. No contributions to this plan have been required in the two years ended February 2, 1975. Vested benefits under the plan exceed the plan's assets by an immaterial amount.

Subsidiaries of the Company engaged in the retail toy business have a profit-sharing plan for eligible employees, which plan may be terminated at the discretion of the subsidiaries. Provisions of approximately $753,000 and $520,000 (based principally on payroll) have been charged to operations in the years ended February 2, 1975 and February 3, 1974, respectively. It is the Company's policy to fund costs accrued.

There are no unfunded past service costs under these plans. No determination has yet been made of the additional cost, if any, that might result from changes to the plan to conform with the provisions of the Pension Reform Act of 1974.

11. PROPOSED DEFICIENCY IN INCOME TAXES

The Internal Revenue Service has proposed deficiencies in income taxes for the seven years ended January 31, 1968 amounting to approximately $3,800,000. The Company instituted appeals and had reached a tentative oral agreement with the Appellate Division with respect to certain assessments for such years amounting to $800,000. A reserve of approximately $1,625,000 (which includes additional tax, applicable to this issue, for periods subsequent to 1968) including accrued interest of approximately $575,000, is included in the accompanying consolidated financial statements. However, as a result of filing the petitions for bankruptcy, the responsibility for the assessment reverts from the Appellate Division to the Office of the District Director which is not bound by the proposed settlement but is free to assess any deficiency of income tax that it determines.

12. NET OPERATING LOSS CARRYFORWARDS

The amount and availability of net operating loss carryforwards may, at least in part, be contingent upon the provisions of any plan ultimately adopted for the settlement of claims under the Chapter X proceedings. Subject to the effect of any such plan, as of February 2, 1975, the Company had available:

a. Net operating loss carryforwards for financial reporting purposes of approximately $108,000,000.

b. Net operating loss carryforwards for income tax purposes of approximately $88,000,000, of which substantially all expire on February 3, 1980.

The principal difference between the amount for financial and tax purposes results from the recognition of substantial charges for financial accounting purposes applicable to the store closing program, which will result in tax deductions in subsequent periods.

13. LINES OF CREDIT AND FINANCING ARRANGEMENTS

a. Under an agreement dated as of July 17, 1974 and renewed as of January 31, 1975, the Trustees of Interstate's subsidiary, Toys "R" Us, Inc., entered into a revolving credit agreement with a group of banks. Under the agreement, $6,000,000 may be borrowed through September 1, 1975 and an additional $4,000,000 may be borrowed thereafter, provided that total borrowings under the agreement may not exceed 50% of trade payables (as defined in the agreement) incurred subsequent to May 22, 1974. The loans are required to be reduced to no more than $6,600,000 on December 15, 1975 and no more than $3,200,000 on January 15, 1976 and to be repaid on February 16, 1976. As at February 2, 1975 no amounts were outstanding under the agreement.

Interest is payable monthly based upon a rate equal to the greater of (i) 1% over the current lending rate of one of the banks, or (ii) 1% over the average interest rate for 90-day Certificates of Deposit in the New York money market for the last five days of the prior month.

Among other matters, the consolidated working capital (defined to exclude any liabilities incurred prior to May 22, 1974) must be not less than $30,000,000 and consolidated net worth must be at least $24,000,000.

All loans made under the agreement will be a first lien and claim upon all property of the Toys "R" Us Operations (subject to any valid liens existing on May 22, 1974) pari passu only with trade payables arising subsequent to May 22, 1974; further, such borrowings are secured by a guarantee of Interstate's Trustees. The obligations evidenced by such guarantee constitute a first lien and claim upon the property of Interstate comprised of the stock and assets of the Toys "R" Us Operations (subject to any valid liens existing on May 22, 1974) pari passu only with obligations of the Trustees arising in connection with guarantees by them of the Toys "R" Us Operations trade payables arising subsequent to May 22, 1974.

b. Under an agreement dated as of July 26, 1974, Interstate's Trustees entered into an accounts receivable financing arrangement with a bank for the benefit of Interstate's Department Store Operations. The agreement is for a six-month period and is renewable on a monthly basis thereafter at the option of the parties. Borrowings (limited to 60% of the pledged accounts receivable of the Department Store Division up to a maximum of $5,000,000) are collateralized by all of the Department Store Operations accounts receivable including the proceeds therefrom; interest shall be at the greater of (i) 4% over the bank's prime rate, or (ii) 12%. In addition to the security interest in the accounts receivable, the bank will have (i) a first lien and claim on the capital stock and all the property (except inventory) of the Department Store Operations subsidiaries (subject to any valid liens existing on May 22, 1974), and (ii) a first lien and claim upon all other property of Interstate (subject to any valid liens existing on May 22, 1974) pari passu with the bank creditors under the January 31, 1975 revolving credit agreement, but subject to the first lien and claim given to such banks and holders of the Toys "R" Us Operations trade payables under said agreement. As of February 2, 1975 no amounts were outstanding under the agreement.

14. NOTES AND DEBENTURES PAYABLE

The event of filing the petition under Chapter XI of the Federal Bankruptcy Act was an event of default under all of the Company's long-term debt agreements which, together with other events of default, caused the long-term debt to become currently due. Accordingly, such amounts have been reclassified to estimated claims under Chapter X reorganization proceeding. A summary of long-term debt is as follows:

	February 2, 1975	February 3, 1974
	(000's omitted)	
Institutional lenders (a):		
Domestic loans with interest at 12%	$ 47,530	$ 51,000
Eurodollar loans with interest at 13-3/16%	13,000	13,000
Insurance company's loans with interest at 12%	5,750	5,750
Senior subordinated notes due January 1, 1977 - net of unamortized debt discount of $42,000 with interest at 2% above the prime rate as defined (b)	4,958	4,958
4-5/8% convertible subordinated debentures due August 1, 1981 (c)	439	439
4% convertible subordinated debentures due August 1, 1992(c)	20,000	20,000
	$ 91,677	$ 95,147

a. As a condition of the amendatory agreement which restructured, as of June 13, 1973, the various institutional lender notes, the Company pledged (i) the capital stocks of all its subsidiaries, and (ii) certain other stock (included in the accompanying balance sheet at $70,000) as collateral for all present and future obligations to the lenders (other than to their factoring divisions). All of the Company's subsidiaries, under separate agreement dated as of April 23, 1973, executed guarantees of their parent's present and future obligations to the lenders under the credit agreements. On May 21, 1974, the institutional lenders demanded acceleration of the maturity date of their loans. Additionally, on or about May 21, 1974, the banks offset cash deposits of approximately $3,500,000 against the outstanding loan balances.

b. The senior subordinated notes (certain of which are held by the Company's past Chairman of the Board, a corporation controlled by a director of the Company and an individual who is also a co-venturer with the Company in a certain joint venture) are subordinated to all present and future obligations of the above-mentioned institutional lenders (other than their factoring divisions) and are collateralized by a second security interest in the capital stocks of the Company's subsidiaries and certain other stock referred to above. The note agreement required the Company, among other things, to comply with various covenants (similar to those required by the institutional lenders) and warrants were issued (exercisable commencing November 30, 1973 and expiring November 30, 1978) for the purchase of 1,000,000 shares of common stock at an exercise price of $3.00 per share, payable in cash or the surrender of notes or both. Of the proceeds from this borrowing, $50,000 was allocated to the warrants and has been credited to additional paid-in capital.

c. The 4-5/8% and 4% debentures are convertible to common stock at prices of $8.36 and $37.45 a share, respectively; shares have been reserved for such conversion. These indentures also required annual redemptions subject to reduction, at the Company's option, for prior conversion. There were no conversions during the fiscal year ended February 2, 1975. The required annual redemptions are (i) $275,000 per year through 1980 for the 4-5/8% debentures, and (ii) $900,000 from 1978 through 1991 for the 4% debentures.

15. MORTGAGES PAYABLE - CONTINUING OPERATIONS

Mortgages payable, applicable to the continuing toy and department store operations, consist of the following:

	February 2, 1975	February 3, 1974
	(000's omitted)	
4-1/2% to 5-3/4%, payable in varying instalments to 1987	$1,396	$1,569
6% to 7%, payable in varying instalments to 1993	1,557	1,868
7-1/8% to 8-1/2%, payable in varying instalments to 1995	2,242	2,359
9%, payable in varying instalments to 1981	719	730
	5,914	6,526
Less current portion	331	435
Long-term portion	$5,583	$6,091

The mortgages are collateralized by property and equipment with a net book value of $9,300,000 at February 2, 1975.

Aggregate annual principal payments are as follows:

Year ending January,	(000's omitted)
1976	$ 331
1977	365
1978	340
1979	319
1980 and subsequent	4,559
	$ 5,914

16. MORTGAGES PAYABLE - APPLICABLE TO FIXED ASSETS HELD FOR SALE

The Company has ceased to repay its mortgage obligations relating to the discontinued discount store operations. Such obligations consist of the following:

	February 2, 1975	February 3, 1974
	(000's omitted)	
6% to 6-7/8%, payable in varying instalments to 1994	$ 2,875	$ 4,032
7%, payable in varying instalments to 1999	6,607	6,645
7-1/4% to 8-1/2%, payable in varying instalments to 2002	3,139	5,425
9-7/8%, payable in varying instalments to 2000	2,545	2,550
Total mortgages payable	15,166	18,652
Amount reclassified to "Estimated claims under Chapter X reorganization proceedings" (Note 3) in 1975	15,166	-
Amount classified as "Mortgages payable, applicable to fixed assets held for sale" in 1974	$ -	$ 18,652

17. LEASES

The Company and its subsidiaries lease real property primarily for retail stores. Certain of these leases require (i) additional rentals based on sales and (ii) the Company to pay charges for real estate taxes, insurance, and other ownership and operating expenses. Rent expense under these leases is as follows:

	February 2, 1975	February 3, 1974
	(000's omitted)	
Charged to continuing operations	$5,670	$ 5,555
Charged to discontinued operations:		
Noncancellable leases	-	17,017
Less:		
Sublease income	-	(2,632)
Charged to reserves for store closing program	-	(5,886)
	-	8,499
	$5,670	$14,054

Rent expense in 1975 and 1974 (principally relating to continuing operations - other leases) includes percentage rental payments (based on sales) of approximately $52,000 and $313,000, respectively.

Minimum annual rentals under all noncancellable leases during each of the next five years, each of the next three five-year periods, and the remaining lease period, excluding renewal options, are as follows (000's omitted):

Fiscal year ending in	Noncapitalized financing leases	Other leases	Sublease income	Total
1976	$ 3,045	$ 8,014	$ 1,854	$ 9,205
1977	3,005	7,789	1,854	8,940
1978	2,998	7,706	1,854	8,850
1979	2,998	7,611	1,854	8,755
1980	2,998	7,485	1,854	8,629
1981 - 1985	14,702	34,390	8,870	40,222
1986 - 1990	14,319	28,211	7,737	34,793
1991 - 1995	14,125	20,467	6,150	28,442
After 1995	15,396	15,637	5,981	25,052
	$ 73,586	$137,310	$38,008	$172,888

The present values of minimum rental commitments, discounted at weighted average interest rates of 9.2% (ranging from 4% to 11%) for the fiscal year ended February 2, 1975, and 8.8% (ranging from 5% to 11%) for the fiscal year ended February 3, 1974, for all noncapitalized financing leases are $27,279,000 and $14,201,000. The principal reason for the significant increase in the present value from 1974 to 1975 is due to a change in assumptions as to leases considered to be non-capitalized financing leases under rule 3-16 (Q) of Regulation S-X.

If all financing leases had been capitalized the related assets amortized on a straight-line basis and interest costs accrued on the basis of the outstanding lease liability, the net earnings for the year ended in 1975 would have been reduced by $336,000 and the net loss for the year ended in 1974 would have been increased by $257,000. This calculation includes assumed amortization of $1,041,000 and $513,000 and assumed interest of $2,504,000 and $1,153,000 for 1975 and 1974, respectively.

18. CAPITAL STOCK AND STOCK OPTIONS

At February 2, 1975, a total of 1,815,000 shares of common stock were reserved for issuance as follows:

Exercise of stock options	228,000
Exercise of warrants issued with senior subordinated notes	1,000,000
Conversion of debentures	587,000
	1,815,000

At February 2, 1975, the Company, under its qualified stock option plans, had available for grant 101,150 shares of common stock. Under the terms of the plans (i) options cannot be issued at a price less than the fair market value of the common stock at the date of grant, (ii) options are (depending on the plan) either exercisable 25% a year (on a cumulative basis) commencing one year from the date of grant or exercisable in full four years and nine months from the date of grant, and (iii) the options generally expire five years from the date of grant. Upon exercise of options, the Company credits additional paid-in capital for the excess of option price over the par value of the shares issued in connection therewith.

Changes in stock options under the plans are as follows:

	February 2, 1975	February 3, 1974
Outstanding at beginning of year, (at prices per share ranging from $3.06 to $45.375 at February 3, 1974 and from $6.94 to $45.375 at January 28, 1973)	193,100	221,476
Granted during the year	-	42,300
Expired during the year	(90,850)	(70,676)
Outstanding at end of year, (at prices per share ranging from $3.06 to $18.25 at February 2, 1975 and $3.06 to $45.375 at February 3, 1974)	102,250	193,100
Exercisable at end of year	32,887	42,700

The nonqualified option plan granted to an officer in fiscal 1973, for the purchase of 25,000 shares of common stock at $2.00 per share aggregating $50,000 (market value at $6.50 per share, aggregating $162,000), has been canceled due to the officer's termination of employment. The option was exercisable at 33-1/3% a year (on a cumulative basis) commencing one year from the date of grant.

19. OTHER CREDITS AND DEDUCTIONS

Substantially all of the interest income for the year ended February 2, 1975 results from the investment of funds, which are available due to the non-payment of liabilities and claims due to the reorganization proceedings, in certificates of deposit. In the prior year interest income amounts, which are not significant, are included in "Other income - net."

Bankruptcy administration costs represent amounts incurred through February 2, 1975, in connection with services performed with respect to the Chapter X proceedings. Additional costs will be incurred subsequent to February 2, 1975.

20. INCOME TAXES

The provision for income taxes of continuing operations consists of the following:

	Year ended	
	February 2, 1975	February 3, 1974
	(000's omitted)	
Federal - current	$ 3,400	$ 1,625
Federal - deferred	-	-
State and local	1,400	996
	$ 4,800	$ 2,621

The effective tax rate for 1975 and 1974, respectively, is 8.7% and 8.5% greater than the statutory federal income tax rate of 48% due principally to the inclusion of state and local taxes in the computation.

The extraordinary credit in 1975 arises from the utilization of net operating loss carryovers. The provision for income tax exceeds the extraordinary credit as a result of earnings recorded in 1975 which cannot be offset against available net operating loss carryovers because the earnings occurred in states other than those in which the net operating losses are available.

21. PER SHARE DATA

The Trustees believe that it would not be prudent to present earnings per share data for the year ended February 2, 1975, as there has been no determination in the Chapter X reorganization proceedings under the Federal Bankruptcy Act of the value of the interest, if any, that present shareholders have in the Company. Per share data is presented for the year preceding the filing of the petition for bankruptcy.

Loss per share of common stock was computed by dividing the loss by the weighted average number of shares of Common Stock outstanding during the year. Assumed exercise of outstanding stock options and stock purchase warrants would reduce the net loss per share in 1974; the Debentures (Note 14) are not common stock equivalents.

No presentation is made of fully diluted data per share as the effects of the computation (including the effect of the exercise of stock purchase warrants) for 1974 would be to reduce loss per share. See Note 18 for other information relating to debentures, stock options and stock purchase warrants.

22. LITIGATION

The Company is involved in a number of legal actions, substantially all of which have been stayed, by order of the Court, as a result of the filing of the petition for reorganization under Chapter X of the Federal Bankruptcy Act. A description of the more significant matters follows:

a. In connection with the cessation of retail operations in its Topps and White Front stores, Interstate was compelled to terminate the licenses of various concessionaires operating in such stores. In some instances, the master agreements or license agreements with such concessionaires permitted such termination and in other instances no right of termination existed. The termination of the concession licenses may give rise to liability, particularly in those instances where no right of termination existed, and possibly also in those where a contract right of termination existed. In this connection, there have been (i) an action filed for compensatory and punitive damages amounting to $100,000 and $1,000,000, respectively, (ii) an action filed for $5,000,000, and (iii) claims asserted for unspecified amounts. Reserves were provided during the fiscal year ended February 3, 1974 in the amount of $1,500,000 with respect to the foregoing.

b. There are various actions currently pending against Interstate as to which the defense and payments of judgments are covered by insurance policies with the exception of any awards for punitive damages. (Claims for punitive damages aggregate approximately $3,000,000.)

c. A former licensee which operated leased departments in several of the closed White Front stores has asserted a cross-complaint against Interstate for approximately $30,000,000 based upon alleged civil fraud and breach of contract in connection with the closing of the stores.

d. There are currently pending a number of claims and actions involving labor matters. In several instances, the amounts claimed are not specified. As to the remainder, the aggregate amount claimed is not material.

e. Interstate and others, including in some cases one or more directors or officers of Interstate, have been named as defendants in eleven stockholder derivative actions (four of which are also class actions) in connection with Interstate's negotiations to acquire certain divisions of the McCrory Corporation. The actions seek relief which includes accounting for profits, damages in unspecified amounts and injunctions. The negotiations were terminated on May 12, 1974.

f. On June 10, 1974, a class action was filed by certain debenture holders in the United States District Court, Southern District of New York, on behalf of the holders of Interstate's 4% Convertible Subordinated Debentures, against Interstate, its directors, a former director, certain of its officers, an indenture trustee, and another individual. The complaint alleges civil fraud and breach of trust in connection with the issuance of the Senior Subordinated Notes (see Note 14) as a result of which the lenders thereunder obtained a preferred position to holders of Interstate's 4% Convertible Subordinated Debentures. Damages are sought in the amount of $40,000,000, which amount includes punitive damages of $20,000,000.

g. On June 12, 1974, a class action was filed in the United States District Court, Eastern District of New York, on behalf of purchasers of Common Stock and 4% Convertible Subordinated Debentures of Interstate from December, 1973 until the filing by Interstate of a "petition in Bankruptcy in May, 1974." Interstate, its directors, a former director, certain of its officers, an indenture trustee, and another individual were named as defendants. The civil complaint alleges that the defendants violated the Securities Exchange Act of 1934, rules and regulations promulgated thereunder and the common law of fraud and deceit by, among other things, failing to disclose that in December, 1973 Interstate was "devoid of credit," disseminating "bullish" reports of Interstate's prospects, proposing a "merger" with McCrory Corp., which merger was "never seriously contemplated" and communicating said information, which was adverse to the position of Interstate, to third parties who, in reliance upon said information, sold securities of Interstate. Damages of $55,000,000 (including punitive damages of $20,000,000) are sought on behalf of purchasers of Common Stock and 4% Convertible Subordinated Debentures. An additional $20,000,000 of damages is sought on behalf of the Debenture holders against the indenture trustee under a separate count of the complaint.

23. RESERVATIONS OF PRIOR INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

The prior independent certified public accountants did not express an opinion on the consolidated financial statements of Interstate Stores, Inc. and subsidiary companies for the year ended February 3, 1974 because:

1. of the uncertainty as to the continuation of the Company's remaining store divisions as a going concern;

2. no determination could be made as to whether the store closing programs would be consummated in the manner contemplated, nor as to the adequacy of the reserves aggregating $81,817,000 (Note 5) provided for future costs and losses to be incurred in connection with the store closing program, nor as to the appropriateness of the classification of the reserves and of the related fixed assets and applicable mortgages in the consolidated balance sheet as at February 3, 1974;

3. of the uncertainty as to the ultimate outcome of litigation (Note 22) and tax matters (Note 11).

Exhibit B

Consolidated Financial Statement of Toys "R" Us, Inc. and subsidiaries for the fiscal year ended February 2, 1975:

Report to the Trustees dated May 28, 1975

Consolidated Balance Sheet

Statement of Consolidated Operations and Retained Earnings

Statement of Consolidated Changes in Financial Position

Notes to Consolidated Financial Statements

Exhibit B

TOUCHE ROSS & CO.

1633 BROADWAY
NEW YORK, NEW YORK 10019

May 28, 1975

Mr. Joseph R. Crowley and Mr. Herbert B. Siegel,
as Trustees of Toys "R" Us, Inc. under
Chapter X of the Federal Bankruptcy Act
Saddlebrook, New Jersey

We have examined the consolidated balance sheet of Toys "R" Us, Inc., (the Company) (a wholly-owned subsidiary of Interstate Stores, Inc.) and subsidiaries (in corporate reorganization under Chapter X of the Federal Bankruptcy Act, see Note 2) as of February 2, 1975, and the related statements of operations and retained earnings and changes in financial position for the fiscal year (52 weeks) then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The financial statements have been prepared from the separate records maintained by Toys "R" Us, Inc. and may not necessarily be indicative of the conditions that would have existed or the results of operations if Toys "R" Us, Inc. had been operated as an unaffiliated company (see Note 4).

The operations of Toys "R" Us, Inc. and subsidiaries are included in the consolidated federal income tax returns of Interstate Stores, Inc. Interstate Stores, Inc. does not have a policy for allocating federal income taxes to its subsidiaries. Had Toys "R" Us, Inc. provided taxes on income as if it were filing a separate consolidated federal income tax return, taxes on income for the fiscal year (52 weeks) ended February 2, 1975 would have amounted to $6,250,000 and the cumulative effect of providing taxes on income would have reduced retained earnings and increased due to parent by $12,250,000.

The financial statements referred to above have been prepared using generally accepted accounting principles, except as discussed above, applicable to a going concern which contemplates

the realization of assets and the liquidation of liabilities in the normal course of business. However, continuation of the Company as a going concern is dependent upon:

a. the formulation of a Plan of Reorganization by Interstate Stores, Inc. and/or the Company and its approval by the Court (which could, among other things, result in significant adjustments in the amount of assets and liabilities, as shown in the accompanying balance sheet at February 2, 1975)

b. the ability to maintain existing vendor credit and to obtain any additional credit which may be necessary.

The eventual outcome of these matters is not presently determinable.

The Company has not yet completed its investigation of differences between amounts owed, as of the date on which the Company filed petitions under Chapter XI of the Federal Bankruptcy Act (May 22, 1974), as stated by the vendor claims and the amounts as shown in the accounting records of the Company. The amount provided in the consolidated financial statements reflects the liabilities on the Company's books and records and may be subject to adjustment upon resolution of these differences.

Because of the material uncertainties relating to the matters described in the preceding paragraphs, which result from the Company's present status under the Federal Bankruptcy Act, we are unable to and do not express an opinion on these financial statements.

The consolidated financial statements for the prior year were examined by other certified public accountants.

Touche Ross & Co.

Certified Public Accountants

TOUCHE ROSS & CO.

MR. JOSEPH R. CROWLEY AND MR. HERBERT B. SIEGEL

AS TRUSTEES OF

TOYS "R" US, INC. AND SUBSIDIARIES

(Under Chapter X of the Federal Bankruptcy Act) (Note 2)

CONSOLIDATED BALANCE SHEET

FEBRUARY 2, 1975

(000's omitted)

A S S E T S

CURRENT ASSETS:		
Cash		$ 25,033
Merchandise inventories (Note 1)		28,941
Prepaid expenses and other		1,153
Due from parent		526
TOTAL CURRENT ASSETS		55,653
PROPERTY AND EQUIPMENT - at cost, less accumulated depreciation and amortization (Notes 1, 5 and 6)		20,837
OTHER ASSETS AND DEFERRED CHARGES (Note 1)		344
		$ 76,834

LIABILITIES AND SHAREHOLDER'S EQUITY

CURRENT LIABILITIES:		
Accounts payable - trade		$ 7,344
Accrued expenses, taxes (other than federal income taxes) and other liabilities		4,989
Current portion of mortgage notes payable (Note 6)		298
Current liabilities - post petition		12,631
Estimated claims under Chapter X reorganization proceedings (Note 3):		
Accounts payable - trade	$ 3,294	
Accrued expenses, taxes (other than federal income taxes) and other liabilities	1,108	
Due to parent	19,937	24,339
TOTAL CURRENT LIABILITIES		36,970
MORTGAGE NOTES PAYABLE (Note 6)		4,609
DEFERRED INCOME (Note 1)		418
COMMITMENTS AND CONTINGENCIES (Notes 3 and 8)		
SHAREHOLDER'S EQUITY (Notes 3, 4 and 7):		
Common stock - par value, $1 per share:		
Authorized, 2,000 shares		
Issued and outstanding, 2,000 shares	2	
Additional paid-in capital	266	
Retained earnings	34,569	34,837
		$ 76,834

See notes to consolidated financial statements

TOUCHE ROSS & CO.

MR. JOSEPH R. CROWLEY AND MR. HERBERT B. SIEGEL

AS TRUSTEES OF

TOYS "R" US, INC. AND SUBSIDIARIES

(Under Chapter X of the Federal Bankruptcy Act) (Note 2)

STATEMENT OF CONSOLIDATED OPERATIONS AND RETAINED EARNINGS

FISCAL YEAR (52 WEEKS) ENDED FEBRUARY 2, 1975

(000's omitted)

Net sales	$139,841
Other income, principally interest	1,715
	141,556
Costs and expenses:	
Cost of sales, including occupancy and buying costs	102,049
Selling, advertising, general and administrative expenses	23,673
Depreciation and amortization	1,361
Interest expense, primarily on mortgage notes payable	400
	127,483
Earnings before state and local taxes on income	14,073
State and local taxes on income	1,041
NET EARNINGS (Note 4)	13,032
Retained earnings, February 3, 1974	21,537
Retained earnings, February 2, 1975 (Note 4)	$ 34,569

See notes to consolidated financial statements

TOUCHE ROSS & CO.

MR. JOSEPH R. CROWLEY AND MR. HERBERT B. SIEGEL

AS TRUSTEES OF

TOYS "R" US, INC. AND SUBSIDIARIES

(Under Chapter X of the Federal Bankruptcy Act) (Note 2)

STATEMENT OF CONSOLIDATED CHANGES IN FINANCIAL POSITION

FISCAL YEAR (52 WEEKS) ENDED FEBRUARY 2, 1975

(000's omitted)

SOURCE OF FUNDS:	
Operations:	
Net earnings	$ 13,032
Items not requiring (providing) an outlay of funds:	
Depreciation and amortization	1,361
Amortization of deferred charges	228
Amortization of deferred income	(16)
Funds provided from operations	$ 14,605
APPLICATION OF FUNDS:	
Additions to property and equipment - net	$ 2,162
Repayments of mortgage notes payable	357
Increase in other assets and deferred charges	256
Increase in working capital	11,830
	$ 14,605
INCREASE/(DECREASE) IN WORKING CAPITAL COMPONENTS:	
Cash	$ 20,610
Merchandise inventories	(2,231)
Prepaid expenses and other	(229)
Due from parent	526
Accounts payable - trade	(82)
Accrued expenses, taxes (other than federal income taxes) and other liabilities	(1,870)
Current portion of mortgage notes payable	80
Estimated claims under Chapter X reorganization proceedings	(24,339)
Due to parent	19,365
	$ 11,830

See notes to consolidated financial statements

TOUCHE ROSS & CO.

MR. JOSEPH R. CROWLEY AND MR. HERBERT B. SIEGEL

AS TRUSTEES OF

TOYS "R" US, INC. AND SUBSIDIARIES

(under Chapter X of the Bankruptcy Act)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

FISCAL YEAR (52 WEEKS) ENDED FEBRUARY 2, 1975

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

a. Principles of consolidation

The accompanying consolidated financial statements include the accounts of the Company and its subsidiaries. All material intercompany balances and transactions have been eliminated.

b. Merchandise inventories

Merchandise inventories are stated at the lower of cost or market as determined by the retail inventory method (first-in, first-out basis).

c. Property and equipment

Property and equipment are recorded at cost and depreciation and amortization are provided on a straight-line basis over the estimated useful lives of the assets or, where applicable, the terms of the respective leases, whichever are shorter.

d. Pre-opening cost

Pre-opening store costs, consisting of occupancy expenses and salaries, are deferred and amortized over a twelve-month period based on sales.

e. Deferred income

Deferred income represents the gain on a prior year's sale and leaseback transaction and is being amortized on a straight-line basis over the life of the lease.

2. REORGANIZATION PROCEEDINGS

On May 22, 1974, Interstate Stores, Inc. and its subsidiaries (including the Company) filed petitions under Chapter XI of the Federal Bankruptcy Act. On June 13, 1974, Interstate and its subsidiaries consented to a transfer of the proceeding to Chapter X of the Federal Bankruptcy Act.

Under the order approving the Chapter X proceeding, the Court appointed an independent Trustee and an additional Trustee, who are authorized to operate the business and manage the property of Interstate and its subsidiaries. The Trustees are vested with title to all of the property of Interstate and its subsidiaries and are directed to investigate the desirability of continuing its operations and all other matters relevant to formulating a Plan of Reorganization.

It is the intention of the Trustees to ultimately formulate and propose a Plan of Reorganization. Such a plan could significantly affect the realization of the assets and the amounts and payment terms as well as the classifications of the liabilities, both pre- and post-petition, shown on the accompanying consolidated balance sheet at February 2, 1975. No plan has been developed at this time.

3. ESTIMATED CLAIMS UNDER CHAPTER X REORGANIZATION PROCEEDINGS

The Company is reviewing all creditors' claims filed with the court for amounts owed as of the Chapter XI filing date and investigating all differences between such claims and the books and records of the Company. The Company's investigation of these differences has not been completed. The amounts reflected in the financial statements represent the balances in the Company's books and records and may be subject to adjustment.

The capital stock of the Company and its subsidiaries have been pledged by Interstate Stores, Inc. in connection with secured loans amounting to approximately $64,000,000 which were made prior to May 22, 1974.

4. TRANSACTIONS WITH PARENT

a. Federal taxes on income

The operations of Toys "R" Us, Inc. and subsidiaries are included in the consolidated federal income tax returns of Interstate Stores, Inc. Interstate Stores, Inc. does not have a policy for allocating federal income taxes to its subsidiaries. Had Toys "R" Us, Inc. provided taxes on income as if it were filing a separate consolidated federal income tax return, taxes on income for the fiscal year (52 weeks) ended February 2, 1975 would have amounted to $6,250,000 and the cumulative effect of providing taxes on income would have reduced retained earnings and increased due to parent by $12,250,000.

b. Transfer of Toy subsidiaries

Effective July 17, 1974, Interstate Stores, Inc. transferred the ownership of all its subsidiaries engaged in the toy business to the Company. This transfer has been accounted for as a pooling of interests and the results of operations of the transferred subsidiaries are included in the statement of consolidated operations for the entire fiscal year.

c. Management fee charges

Prior to the fiscal year ended February 2, 1974, Interstate charged the Company a management fee representing an allocation of a portion of its general corporate overhead. No charge has been made for the fiscal year (52 weeks) ended February 2, 1975.

5. PROPERTY AND EQUIPMENT

Property and equipment consist of (000's omitted):

Land	$ 3,831
Buildings	7,353
Furniture and equipment	8,378
Leaseholds and leasehold improvements	7,350
	26,912
Less accumulated depreciation and amortization	6,080
	$20,832

6. MORTGAGE NOTES PAYABLE

Mortgage notes payable bear interest rates from 5.5% to 9%. The annual maturities of mortgages are as follows (000's omitted):

Year ending	
1976	$ 298
1977	336
1978	310
1979	285
1980	283
1981 and subsequent	3,395

Mortgage notes payable are collateralized by property and equipment with an aggregate carrying value of approximately $7,920,000.

7. CREDIT AGREEMENT

Under the terms of a credit agreement, as amended on January 31, 1975, the Company may borrow up to $6,000,000 through September 15, 1975 and an additional $4,000,000, thereafter, through February 16, 1976. Borrowings under this credit agreement cannot exceed fifty percent of trade accounts payables, as defined, and the total commitment is reduced to $6,000,000 on December 15, 1975 and to $3,200,000 on January 15, 1976. Interest is payable at an annual rate of 1% above prime on any outstanding balance along with a facility fee of 1/4% on the total commitment and 1/2% on the unused portion of the commitment.

This agreement contains, among other provisions, requirements to maintain working capital, as defined, of $30,000,000, net worth, as defined, of $24,000,000 and restricts the Company from making any transfers, advances or loans except to Interstate Stores, Inc. for direct administrative expenses not to exceed $75,000 in any month.

Any indebtedness under the terms of this agreement is secured by a first lien and claim upon all the property of the Company, subject to valid liens, if any, existing on May 22, 1974, pari passu with trade accounts payable, as defined, arising subsequent to May 22, 1974.

No amounts have been borrowed under this agreement.

8. LEASES

Fixed annual rentals under long-term leases are as follows (including costs of maintenance insurance and similar expenses) (000's omitted):

Fiscal year ending in	Noncapitalized financing leases	Other leases	Total
1976	$ 2,110	$ 2,733	$ 4,843
1977	2,110	2,617	4,727
1978	2,110	2,574	4,684
1979	2,110	2,523	4,633
1980	2,110	2,397	4,507
1981-1985	10,550	10,463	21,013
1986-1990	10,550	8,034	18,584
1991-1995	10,550	4,363	14,913
After 1995	11,312	2,173	13,485
	$53,512	$37,877	$91,389

The present value of minimum rental commitments, discounted at a weighted average interest rate of 10% (ranging from 9% to 10%) for the fiscal year ended February 2, 1975, for all noncapitalized financing leases is $19,415,000.

If all financing leases had been capitalized, the related assets amortized on a straight-line basis and interest costs accrued on the basis of the outstanding lease liability, net earnings for the year would have been decreased by $505,000. This calculation includes assumed amortization of $712,000 and assumed interest of $1,943,000.

Total rental expense for the year was as follows (000's omitted):

Noncapitalized financing leases	$ 2,110
Other leases	1,779
	$ 3,889

9. PROFIT-SHARING PLAN

The Company has a profit-sharing plan for eligible employees which may be terminated at its discretion. A provision of approximately $753,000 (based principally on payroll) has been charged to operations during the current year. It is the Company's policy to fund costs accrued.

Joseph R. Crowley and Herbert B. Siegel
As Trustees of Interstate Stores, Inc. and Subsidiaries
Under Chapter X, In Proceedings for Reorganization

Exhibit C

Toys "R" Us Subsidiaries

Consolidated Statement of Operations For
The 39 Week Periods Ended November 2, 1975 and November 3, 1974
($,000's Omitted)
Unaudited*

	39 Weeks Ended November 2, 1975	39 Weeks Ended November 3, 1974
Total Owned Sales	$71,595	$55,310
Cost and Expenses:		
Initial Markup	22,446	18,104
Markdowns at Cost	936	576
Prov. for Inventory Shortages	931	808
Gross Margin	20,579	16,720
(Dist. Chgs.), Net of Discts. & Allow.	(2,011)	(2,125)
Mdse. Margin - Owned Sales	18,568	14,595
Leased Dept. Income & Misc.	74	57
Other Income	2,078	1,799
Gross Profit	$20,720	$16,451
Operating Expenses:		
Payroll & Fringes	9,284	8,401
Regional Office Costs	1,895	2,129
Promotion Expenses	1,222	1,135
Non-Controllable	5,033	4,579
Controllable	2,122	1,435
Interest on Mortgages	256	272
Depreciation & Amortization	787	618
Total Operating Expenses	$20,599	$18,569
Operating Profit/Loss Before F.I.T.	$ 121	($ 2,118)

* This statement is unaudited, but in the opinion of the debtors includes all adjustments necessary for a fair statement of the results of operations for these periods. Due to the seasonal nature of the business, the major portions of profits usually are earned in the last 13 weeks of the fiscal year and therefore the results for the periods indicated are not indicative of the results for the entire fiscal year. This statement should be read in conjunction with the audited financial statements included as exhibits to this Report, the notes thereto and the accountants' reports included therein.

Joseph R. Crowley and Herbert B. Siegel
As Trustees of Interstate Stores, Inc. and Subsidiaries
Under Chapter X, In Proceedings for Reorganization

Exhibit D

Department Store Subsidiaries

Consolidated Statement of Operations For
The 39 Week Periods Ended November 2, 1975 and November 3, 1974
($,000's Omitted)
Unaudited*

	39 Weeks Ended November 2, 1975	39 Weeks Ended November 3, 1974
Total Owned Sales	$26,750	$28,822
Cost and Expenses:		
Initial Markup	11,770	12,196
Markdowns at Cost	1,176	1,557
Prov. for Inventory Shortages	347	374
Gross Margin (Dist. Chgs.), Net of Discts. & Allow.	10,247	10,265
	314	114
Mdse. Margin - Owned Sales	10,561	10,379
Leased Dept. Income & Misc.	927	1,240
Other Income	576	750
Gross Profit	$12,064	$12,369
Operating Expenses:		
Payroll & Fringes	6,362	8,098
Regional Office Costs	470	394
Promotion Expenses	1,172	1,234
Non-Controllable	1,980	2,364
Controllable	1,854	2,223
Interest on Mortgages	54	46
Depreciation & Amortization	520	624
Total Operating Expenses	$12,412	$14,983
Operating Profit/loss Before F.I.T.	($ 348)	($ 2,614)

* This statement is audited, but in the opinion of the debtors includes all adjustments necessary for a fair statement of the results of operations for these periods. Due to the seasonal nature of the business, the major portions of profits usually are earned in the last 13 weeks of the fiscal year and therefore the results for the periods indicated are not indicative of the results for the entire fiscal year. This statement should be read in conjunction with the audited financial statements included as exhibits to this Report, the notes thereto and the accountants' reports included therein.

Joseph R. Crowley and Herbert B. Siegel
As Trustees of Interstate Stores, Inc. and Subsidiaries
Under Chapter X, In Proceedings for Reorganization

Exhibit E

Consolidated Statement of Operations For
The 39 Week Periods Ended November 2, 1975 and November 3, 1974
($,000's Omitted)
Unaudited*

	39 Weeks Ended November 2, 1975	39 Weeks Ended November 3, 1974
Total Owned Sales	$98,345	$84,132
Cost and Expenses:		
Initial Markup	34,216	30,300
Markdowns at Cost	2,112	2,133
Prov. for Inventory Shortages	1,278	1,182
Gross Margin	30,826	26,985
(Dist. Chgs.), Net of Discts. & Allow.	(1,697)	(2,011)
Mdse. Margin - Owned Sales	29,129	24,974
Leased Dept. Income & Misc.	1,001	1,297
Other Income	3,044	2,663
Gross Profit	$33,174	$28,934
Operating Expenses:		
Payroll & Fringes	16,126	17,303
Regional Office Costs	2,365	2,523
Promotion Expenses	2,394	2,369
Non-Controllable	7,085	7,019
Controllable	4,329	4,480
Interest on Mortgages	310	318
Depreciation & Amortization	1,333	1,263
Total Operating Expenses	$33,942	$35,275
Operating Profit/Loss Before Other Charges	($ 768)	($ 6,341)
Other Charges	160	4,644
Operating Profit/(Loss) Before F.I.T.	($ 928)	($10,985)

* This statement is unaudited, but in the opinion of the debtors includes all adjustments necessary for a fair statement of the results of operations for these periods. Due to the seasonal nature of the business, the major portions of profits usually are earned in the last 13 weeks of the fiscal year and therefore the results for the periods indicated are not indicative of the results for the entire fiscal year. This statement should be read in conjunction with the audited financial statements included as exhibits to this Report, the notes thereto and the accountants' reports included therein.

Joseph H. Crowley and Herbert B. Siegel
as Trustees of Interstate Stores, Inc. (Debtor)
Under Chapter X, In Proceedings for Reorganization

Exhibit F

Interstate Stores, Inc. (et al)

Consolidated Balance Sheet

As At November 24, 1975
($,000's Omitted)
Unaudited

A S S E T S

Current Assets:	
Cash and Certificates of Deposit	$ 37,739
Accounts Receivable:	
Customers	5,664
Other (Including Cash Advances)	3,301
Refundable Federal Income Taxes	665
Merchandise Inventories	64,124
Fixed Assets-Applicable to operations discontinued and to be discontinued - at estimated net realizable value	15,202
Prepaid Expenses	666
Total Current Assets	126,718
Other Assets	
Fixed Assets-Applicable to continuing operations at cost - less accumulated depreciation and amortization	1,512
Deferred Charges	28,101
Intangibles	1,057
	14,651
Total Assets	$ 172,039

L I A B I L I T I E S

Current Liabilities:	
Bank Loans	$ 100
Current Installment of Mortgages Payable	345
Accounts Payable Trade	33,436
Accrued Expenses, Taxes (Other Than Federal Income Taxes) and Other Liabilities	
Reserve - Applicable to Store Closing Program	4,206
- Others	4,305
	1,096
Total Current Liabilities	43,532
Liabilities Prior to May 22, 1974:	
Accounts Payable Trade	18,490
Accrued Expenses, Taxes (Other than Federal Income Taxes) and Other Liabilities	
Bank Loans (Net of $3,451 Offset)	9,059
Eurodollar Loans	47,545
Insurance Company Loans	13,000
Convertible Subordinated Debentures	5,750
Subordinated Notes	20,435
Accrued Rent and Real Estate Taxes Applicable to Closed Stores	4,858
Federal Income Taxes	13,345
Mortgages Applicable to Closed Stores	1,050
	14,248
Total Liabilities Prior to May 22, 1974	148,628
Reserve for Expenses of Administration	494
Mortgages Excluding Current Portion	5,290
Deferred Items	1,804
Total Liabilities	199,755
Capital Equity/(Deficiency)	(27,716)
Total Liabilities and Capital	$ 172,039

Exhibit F

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Ten Year Financial Review

Operations	1968	1967	1966	1965	1964	1963	1962	1961	1960	1959
Total Sales	$641,069,000	$558,082,000	$505,017,000	$433,631,000	$384,567,000	$311,150,000	$222,807,000	$165,219,000	$114,311,000	$ 90,315,000
Discount Store Sales	569,527,000	493,539,000	444,223,000	377,426,000	330,691,000	256,375,000	167,451,000	108,462,000	55,255,000	26,620,000
Conventional Store Sales	71,542,000	64,463,000	60,794,000	56,205,000	54,176,000	54,778,000	55,356,000	56,757,000	59,056,000	63,695,000
Net Income before Taxes	21,981,000	17,707,000	17,310,000	14,433,000	11,122,000	7,122,000	5,240,000	3,820,000	2,285,000	2,059,000
Net Income after Taxes	10,951,000	10,197,000	9,790,000	7,933,000	5,922,000	3,907,000	2,900,000	2,059,000	1,400,000	1,294,000
Earnings Per Share*	2.27	2.16	2.13	1.79	1.41	1.05	.79	.57	.42	.41
Financial										
Working Capital	$ 55,200,000	$ 50,142,000	$ 37,641,000	$ 38,769,000	$ 37,618,000	$ 28,178,000	$ 14,786,000	$ 14,904,000	$ 10,661,000	$ 12,108,000
Current Ratio	1.8 to 1	1.9 to 1	1.6 to 1	1.9 to 1	2.1 to 1	2.1 to 1	1.5 to 1	1.9 to 1	1.7 to 1	2.6 to 1
Total Assets	135,593,000	105,610,000	133,015,000	108,366,000	91,287,000	68,610,000	59,670,000	45,050,000	37,554,000	28,811,000
Fixed Assets	55,847,000	37,228,000	27,281,000	19,138,000	12,923,000	9,567,000	7,760,000	6,740,000	7,096,000	6,875,000
Long Term Debt	42,186,000	34,732,000	13,500,000	13,792,000	15,500,000	15,619,000	5,962,000	6,960,000	3,336,000	3,040,000
Stockholders' Equity	76,031,000	66,706,000	57,843,000	48,648,000	40,639,000	26,363,000	23,215,000	20,670,000	18,917,000	17,031,000
Dividends Per Share—Cash*	.60	.48	.46	.39	.30	.22	.17	.14	.12	.12
—Stock Dividends	—	—	4%	4%	4%	4%	4%	2%	5%	3%
—Stock Splits	—	3-for-4	—	—	2-for-1	—	—	3-for-1	—	—
Stores										
Discount	94	81	70	59	58	51	44	25	20	5
Conventional	31	32	31	31	32	34	36	37	41	46
Total	125	113	101	90	90	85	80	62	61	51

*Based on average number of shares for each year, adjusted to give effect to all stock dividends and stock splits

EXHIBIT 13

Exhibit G

Exhibit H
Page 1 of 2

I N T E R S T A T E S T O R E S , I N C .

(Debtors in Reorganization)

KEY DIVISIONAL OPERATING DATA*

CONDENSED OPERATING SUMMARY

(Expressed as a percent of sales)

WHITE FRONT

	Fiscal year ended					
	1969	1970	1971	1972	1973	1974
Sales (in millions)	$201	$206	$212	$211	$196	$ 82
Initial markup	28.5	29.0	29.3	28.9	27.3	26.1
Gross margin	25.0	25.5	25.3	24.5	23.9	21.1
Operating profit contribution	2.7	.6	(2.6)	(3.6)	(7.1)	(13.2)
Selling, general and administrative expenses	21.2	23.5	25.7	27.1	30.0	31.6
Major components of selling, general and administrative:						
Payroll	11.7	13.2	13.6	13.0	14.0	14.1
Occupancy	2.8	2.5	3.1	4.3	4.5	6.3
Promotion	3.3	3.6	4.0	4.3	5.3	6.8
Number of stores at end of period	25	28	34	37	41	24**

* Data was prepared from unaudited divisional operating statements and excludes income taxes and corporate office expense allocations.

** Including stores closed during the year ended February 2, 1975.

Exhibit H

Exhibit
Page 2 of

I N T E R S T A T E S T O R E S , I N C .

(Debtors in Reorganization)

KEY DIVISIONAL OPERATING DATA*

CONDENSED OPERATING SUMMARY

(Expressed as a percent of sales)

TOPPS

	Fiscal year ended					
	1969	1970	1971	1972	1973	1974
Sales (in millions)	$201	$224	$231	$224	$197	$1[illegible]
Initial markup	30.7	30.9	31.9	33.0	33.2	34.[illegible]
Gross margin	26.5	25.9	26.6	27.3	26.5	27.[illegible]
Operating profit contribution	5.1	2.1	.5	(.6)	(4.9)	(7.[illegible]
Selling, general and administrative expenses	21.5	23.9	26.0	27.8	31.2	35.[illegible]
Major components of selling, general and administrative:						
Payroll	11.7	12.5	12.6	13.4	14.3	16.[illegible]
Occupancy	3.5	3.8	4.4	4.5	5.1	5.[illegible]
Promotion	3.2	3.7	4.4	4.7	6.1	6.[illegible]
Number of stores at end of period	61	69	75	70	67	41**

* Data was prepared from unaudited divisional operating statements and excludes income taxes and corporate office expense allocations.

** Including stores closed during the year ended February 2, 1975.

Exhibit

Exhibit I

I N T E R S T A T E S T O R E S , I N C .

(Debtors in Reorganization)

OPERATING RESULTS OF DISCONTINUED DISCOUNT STORES

(Notes A and B)

	Fiscal year ended January,				
	1974	1973	1972	1971	1970
	(000's omitted)				
Loss of stores discontinued or to be discontinued as of January, 1973	$ -	$ 12,616	$ 7,030	$ 5,094	$ 540
Loss/(profit) of remaining stores	27,363	14,007	3,422	52	(11,191)
Loss/(profit) of all discount stores	$ 27,363	$ 26,623	$ 10,452	$ 5,146	$(10,651)

NOTES:

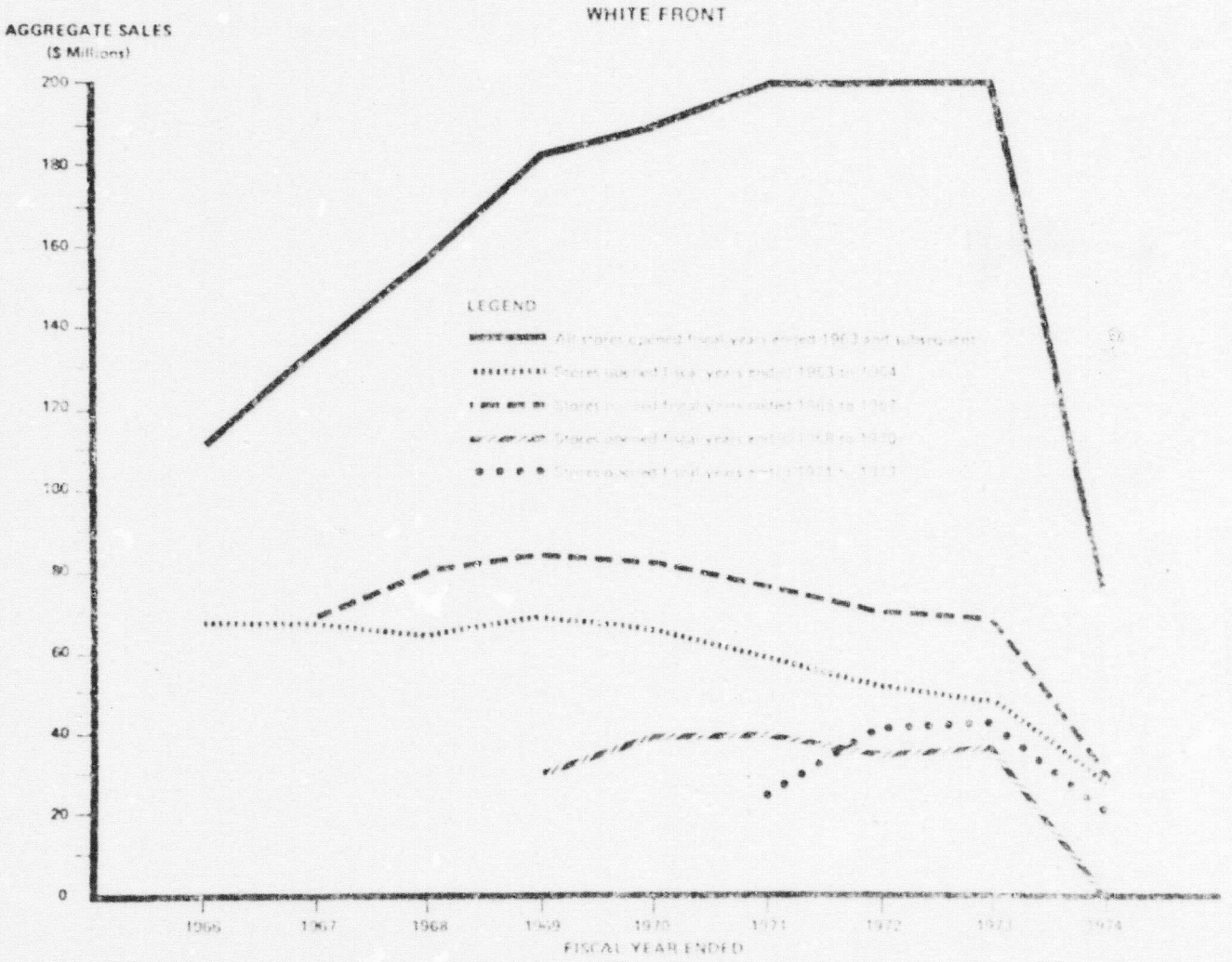
(A) The above results are before any income tax effects and include allocations of Home Office expenses but exclude interest expense incurred by the Debtor in connection with the financing of such operations.

(B) The above results do not include any amounts attributed to the disposal of stores discontinued which aggregated $69,580 and $40,284 at and during the fiscal years ended 1974 and 1973, respectively.

I N T E R S T A T E S T O R E S , I N C .

(Debtors in Reorganization)

SALES AND PROFIT TREND DATA OF DISCOUNT STORES BY YEAR OF OPENING



NOTE: This exhibit was prepared from internal financial statements prepared by the Debtors. The graph [illegible] the sales and profit of stores opened in those years indicated on the legend as compared to the sales and profit of all stores operated during each fiscal year ended [illegible].

Exhibit J

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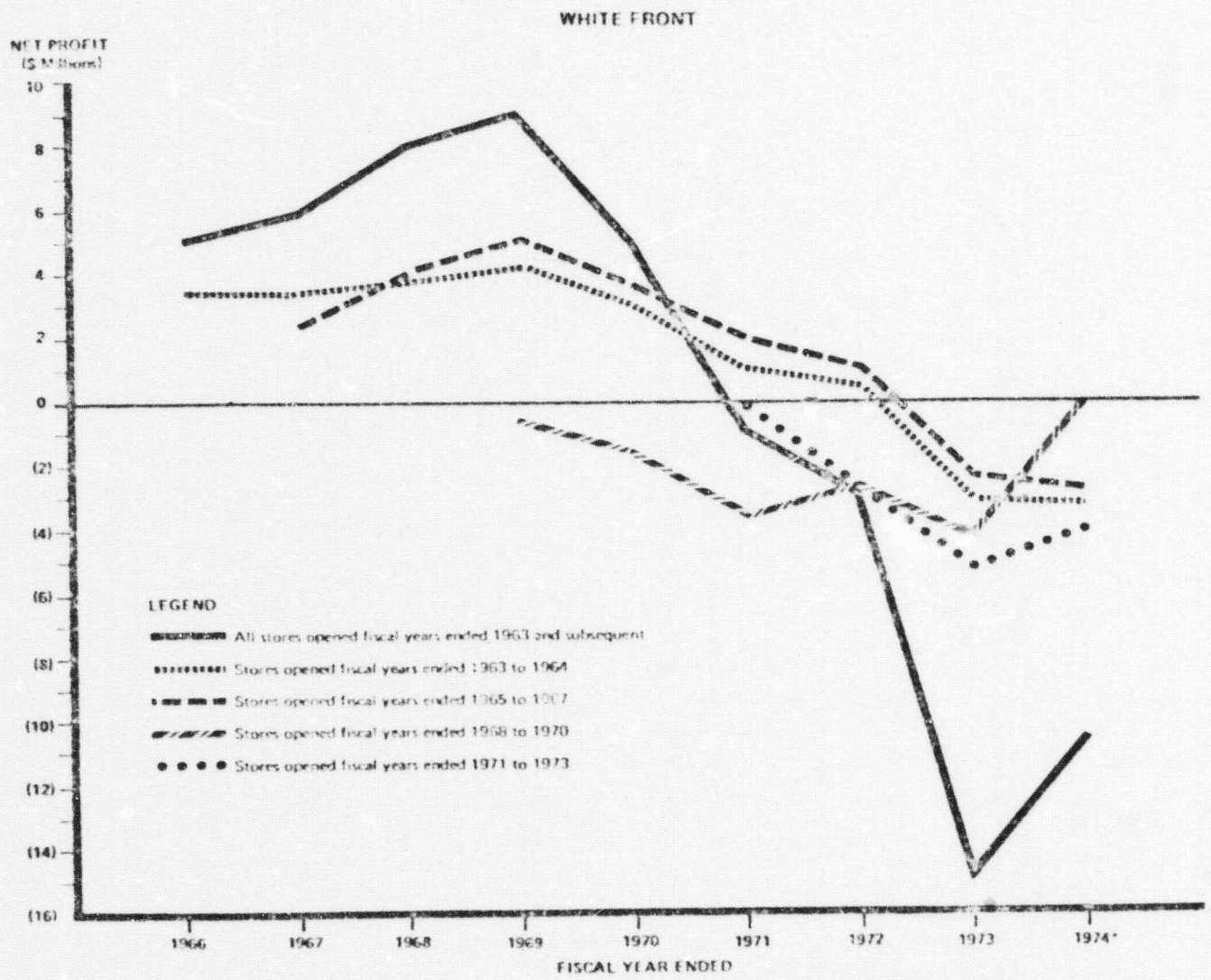
417a

INTERSTATE STORES, INC.

(Debtors in Reorganization)

SALES AND PROFIT TREND DATA OF DISCOUNT STORES BY YEAR OF OPENING



* The increase in aggregate profit reflects store closings as of fiscal year ended January 28, 1973

Exhibit J

Exhibit J
Page 2 of 4

INTERSTATE STORES, INC.

(Debtor-in-Possession)

SALES AND PROFIT TREND DATA OF DISCOUNT STORES BY YEAR OF OPENING

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SALES AND PROFIT TREND DATA OF DISCOUNT STORES BY YEAR OF OPENING

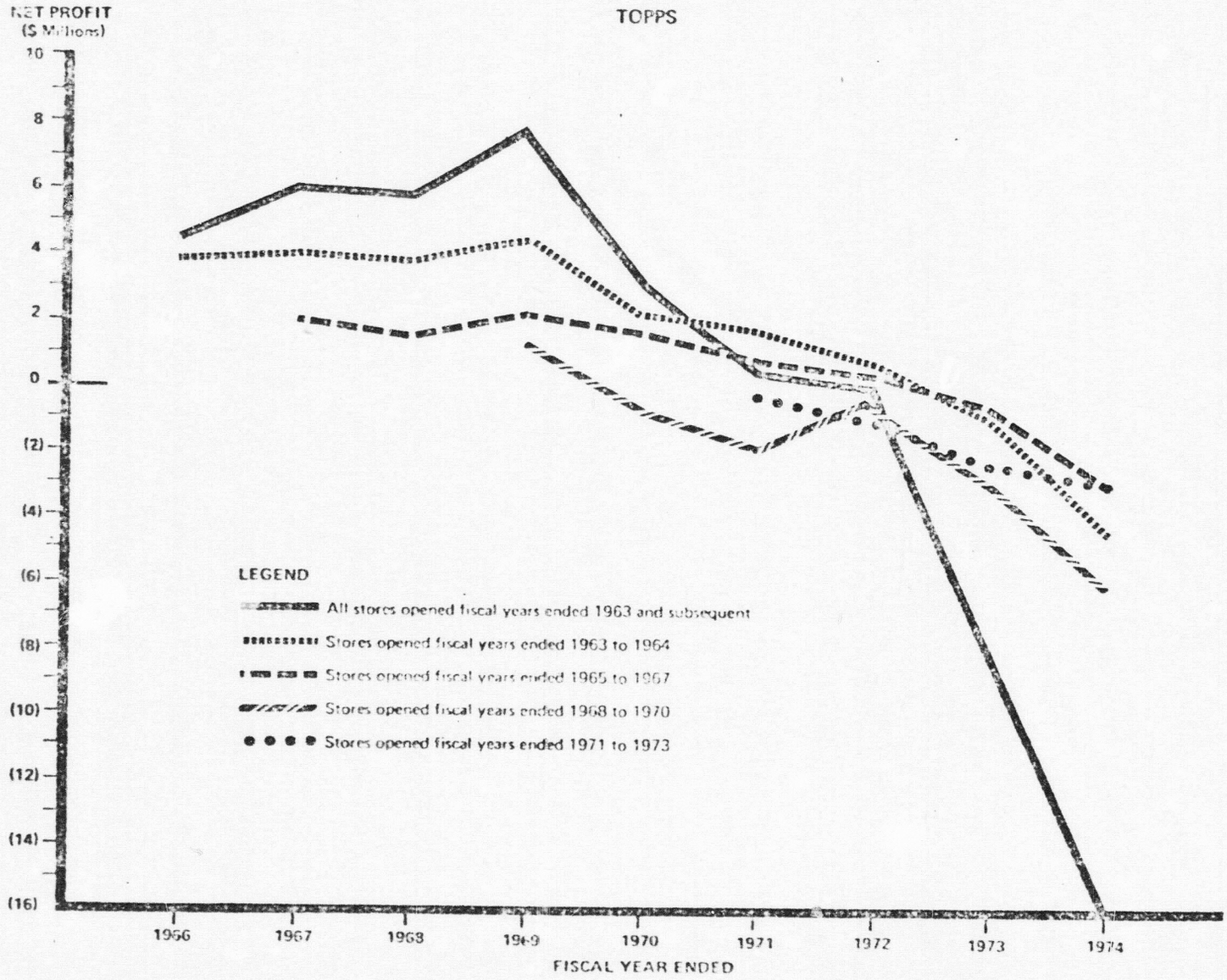

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Exhibit J

Exhibit J
Page 4 of 4

Exhibit K
Page 1 of 2

I N T E R S T A T E S T O R E S , I N C .

(Debtors in Reorganization)

COMPARATIVE GROWTH PERFORMANCE (A)

SALES AND EARNINGS

Year		GROWTH						Number of companies in	
		5-Year annual sales growth			5-Year annual earnings per share growth				
			Rank			Rank			
Report	Fiscal	Interstate Percent	In this industry	Among all companies	Interstate Percent	In this industry	Among all companies	Industry	Survey
1969	January 31, 1968	15.1	22	116	15.3	20	119	30	500
[illegible]	February 2, 1969	11.8	10	210	0.0	17	230	28	560
[illegible]	February 1, 1970	10.2	19	287	-6.0	+30	317	38	659
1972	January 31, 1971	6.1	34	332	-66.6	41	653	46	729
1973	January 30, 1972	4.2	42	383	(D)	46	715	47	750
1974	January 28, 1973	2.0	55	(C)	(D)	58	(C)	57	851
1975	January 31, 1974 (B)								

(A) SOURCE: Forbes Magazine's Annual Review of American Business
(as reported in the first issue of the year indicated).

(B) Interstate not included in Report.

(C) Not available in Report.

(D) Profit to Deficit

INTERSTATE STORES, INC.

(Debtors in Reorganization)

COMPARATIVE CORPORATE PERFORMANCE (A)

RETURN ON EQUITY AND CAPITAL

Year		5-Year return on							
		Equity			Capital			Latest 12 month return on equity	Number of companies in
			Rank			Rank			
Report	Fiscal	Interstate percent	In this industry	Among all companies	Interstate percent	In this industry	Among all companies		Industry	Survey
1969	January 31, 1968	16.1	27	129	14.0	18	99	16.0	30	500
1970	February 2, 1969	14.6	11	101	12.9	8	104	13.4	28	560
1971	February 1, 1970	12.8	21	284	11.1	16	213	7.2	38	659
1972	January 31, 1971	8.6	35	530	7.6	27	415	.1	46	729
1973	January 30, 1972	5.3	43	661	4.7	43	652	(D)	47	750
1974	January 28, 1973	(D)	56	(C)	(D)	56	(C)	(D)	57	851
1975	January 31, 1974 (B)									

(A) SOURCE: Forbes Magazine's Annual Review of American Business (as reported in the first issue of the year indicated).

(B) Interstate not included in Report.

(C) Not available in Report.

(D) Deficit.

Exhibit L
Page 1 of 4

I N T E R S T A T E S T O R E S , I N C .

(Debtors in Reorganization)

ANALYSIS OF KEY BUSINESS RATIOS AND INDICATORS

Fiscal year ended	Valuation ratios and indicators			
	Current	Quick	Cash	Times interest earned
1963	1.50	.41	.11	8.28
1964	2.09	.59	.16	10.62
1965	2.10	.77	.46	13.50
1966	1.89	.68	.35	19.00
1967	1.63	.47	.22	22.69
1968	1.91	.57	.28	14.27
1969	1.76	.34	.06	12.95
1970	1.47	.32	.11	5.13
1971	1.51	.30	.10	1.09
1972	1.48	.34	.15	1.08
1973	1.60	.38	.16	-1.24*
1974	.64	.15	.06	-1.44*

Ratio formulas:

$$\text{CURRENT RATIO} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

$$\text{QUICK RATIO} = \frac{\text{Cash + Marketable Securities + Net Accounts Receivable}}{\text{Current Liabilities}}$$

$$\text{CASH RATIO} = \frac{\text{Cash + Marketable Securities}}{\text{Current Liabilities}}$$

$$\text{TIMES INTEREST EARNED} = \frac{\text{Operating Income}}{\text{Interest}}$$

* Adjusted to include discontinued operations

Exhibit I

Exhibit L
Page 2 of 4

I N T E R S T A T E S T O R E S , I N C .

(Debtors in Reorganization)

ANALYSIS OF KEY BUSINESS RATIOS AND INDICATORS

Fiscal year ended	Inventory Ratios	
	Turnover	Days to sell
1963	-	-
1964	7.81	46.11
1965	7.99	45.06
1966	7.54	47.77
1967	7.02	51.27
1968	5.48	65.75
1969	5.09	70.77
1970	4.62	77.88
1971	4.31	83.55
1972	4.45	80.90
1973	5.79*	62.13*
1974	5.49*	65.54*

Ratio formulas:

AVERAGE INVENTORY TURNOVER

$$= \frac{\text{Cost of Goods Sold}}{(\text{Beginning Inventory} + \text{Ending Inventory})/2}$$

AVERAGE DAYS TO SELL

$$= \frac{(\text{Beginning Inventory} + \text{Ending Inventory})/2}{\text{Cost of Goods Sold} \div 360}$$

* Adjusted to include discontinued operations

Exhibit L

Exhibit L
Page 3 of 4

I N T E R S T A T E S T O R E S , I N C .

(Debtors in Reorganization)

ANALYSIS OF KEY BUSINESS RATIOS AND INDICATORS

Fiscal year ended	Operating and performance ratios			
	Efficiency	Profit margin	Profitability	Return on assets
1963	3.97	.02	.08	.14
1964	4.79	.02	.09	.16
1965	4.47	.03	.13	.20
1966	4.17	.03	.13	.21
1967	4.01	.03	.13	.20
1968	3.22	.03	.10	.17
1969	3.15	.04	.11	.19
1970	2.72	.03	.07	.12
1971	2.56	.01	.02	.04
1972	2.67	.01	.03	.04
1973	2.93*	-.01*	-.03*	-.05*
1974	3.23*	-.02*	-.08*	-.13*

Ratio formulas:

$$\text{EFFICIENCY RATIO} = \frac{\text{Net Sales}}{\text{Tangible Operating Assets}}$$

$$\text{PROFIT MARGIN RATIO} = \frac{\text{Operating Income}}{\text{Net Sales}}$$

$$\text{PROFITABILITY RATIO} = \frac{\text{Operating Income}}{\text{Tangible Operating Assets}}$$

$$\text{RETURN ON TOTAL ASSETS (RTA)} = \frac{\text{Income before Interest and Taxes}}{\text{Total Assets}}$$

* Adjusted to include discontinued operations

Exhibit L
Page 4 of 4

I N T E R S T A T E S T O R E S , I N C .

(Debtors in Reorganization)

ANALYSIS OF KEY BUSINESS RATIOS AND INDICATORS

Fiscal year ended	Equity ratio		Leverage on debt	
	Book value per common share	Return before tax	Short-term	Long-term
1963	$ 7.30(A)	.33	.18	.01
1964	7.96(A)	.41	.16	.08
1965	10.19(A)	.42	.16	.06
1966	11.24(A)	.45	.19	.04
1967	12.31(A)	.45	.21	.04
1968	13.92(A)	.40	.16	.07
1969	15.49	.46	.18	.08
1970	18.08	.28	.13	.03
1971	17.78	.06	.04	-.03
1972	18.04	.03	.04	-.05
1973	10.85	-.23*	-.08*	-.18*
1974	-6.27	(B)*	(B)*	(B)*

Ratio formulas:

$$\text{BOOK VALUE OF COMMON STOCK} = \frac{\text{Common Equity}}{\text{Common Shares}}$$

RETURN (BEFORE TAXES) ON COMMON EQUITY

$$= \frac{\text{Income Before Taxes}}{\text{Common Equity}}$$

LEVERAGE ON DEBT:

$$\text{SHORT-TERM DEBT} = \frac{\text{RTA} \times \text{Current Liabilities}}{\text{Common Equity}}$$

$$\text{LONG-TERM DEBT} = \frac{(\text{RTA} \times \text{Long-Term Debt}) - \text{Interest}}{\text{Common Equity}}$$

* Adjusted to include discontinued operation

(A) Adjusted for stock split

(B) Capital deficiency

Exhibit L

Transcript of Proceedings Had 6/28/76
Before the Bankruptcy Court

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK
(In Bankruptcy)

----------x

In the Matter :

of : 74 B 614-802

INTERSTATE STORES, INC., et al, :

Debtors :

----------x

United States Courthouse
Foley Square
New York, N. Y.
June 28, 1976
10:30 a.m.

B e f o r e:

THE HONORABLE EDWARD J. RYAN, Bankruptcy Judge

HEARING ON ORDER TO SHOW CAUSE TO VACATE ORDER AND RE-NOTICE SALE OF PROPERTY (CHICAGO HEIGHTS)

MOTION TO SET ASIDE ORDER OF SALE

GERALD I. METZ, C.S.R.
OFFICIAL COURT REPORTER

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APPEARANCES:

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Commission

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BY: [illegible] GALLOWITT, ESQ.
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BY: IRA KARLSTEIN, ESQ.

MESSRS. ROGERS, HOGUE & HILLS
Attorneys for NT
BY: KENNETH EVERETT, ESQ.,
Of Counsel

APPEARANCES (continued):

MESSRS. POPPER & POPPER
Attorneys for Unofficial Creditors Committee
BY: WILLIAM I. POPPER, ESQ.

* * * * *

MR. YASSKY: The next matter is with respect to Chicago heights. I would defer to counsel for the moving party, Messrs. Krause, Hirsh & Gross.

THE COURT: Is Mr. Hancock present?

MR. KRUGER: Yes, he is, your Honor. I wonder if I might ask Mr. Hancock to come forward just a moment. I think he would like to address your Honor.

THE COURT: Let him be sworn and he can be examined in theusual fashion. There is a preliminary issue of fact here as to whether Mr. Hancock came into court totally naive and unaware of the fact that there might be counter offers. I have an affidavit from the trustees' attorneys stating that Mr. Hancock said if anybody bid another penny, he would withdraw his offer, in effect. That's what

I understand. I think this is a preliminary issue of fact.

MR. KRUGER: I will be happy to put him on the stand with respect to that issue. Mr. Hancock, would you please take the stand.

J O H N H A N C O C K, called as a witness on his own behalf, after having been first duly sworn by the Court, was examined and testified as follows:

THE COURT: All right, be seated, please.

Would you give the reporter your full name, your residence address.

THE WITNESS: John E. Hancock, 18863 Cherry Lane, Lansing, Illinois, 60438.

DIRECT EXAMINATION

BY MR. KRUGER:

Q Did there come a time when you became interested in the acquisition of the property which is the subject of our presence here in court today, the Joe Orr property?

A Yes.

Q When did you first become interested in

this property?

A Some time in the early part of March.

Q What year?

A 1976.

Q What did you then do with respect to the property?

A I contacted a Mr. Finkel and we entered into --

Q Who is he?

A As I understand, he's the man to talk to at Interstate who was selling the property.

Q How did you come across Mr. Finkel?

A Through the Chamber of Commerce in Chicago Heights. They had his name.

Q Did you enter into negotiations with Mr. Finkel for the purchase of the property?

A Yes, sir.

Q Did those negotiations lead to your executing an agreement for the purchase of the property?

A Yes, sir.

MR. KRUGER: The actual agreement that was entered into between the parties is a part of, I think, everybody's petition. I don't think there is any need

to introduce it as evidence at this time, but let me offer it formally for the purposes of this hearing, and I'm referring to an agreement made the 20th day of April, 1976, by and between Joseph R. Crowley and Herbert B. Siegel as trustees and John Hancock as the buyer with respect to the subject property.

THE COURT: I don't see any need to mark it. I think that the agreement that's annexed to the application shall be deemed movant's Exhibit 1 of today's date.

Does anybody object to it being received in evidence?

MR. YASSKY: No, your Honor.

THE COURT: All right, it's received.

(Document abovedescribed deemed marked Movant's Exhibit 1 in evidence.)

BY MR. KRUGER:

Q Did you in your discussions with Mr. Finkel discuss with him the purchase price for the property?

A Yes, sir.

Q What purchase price was finally agreed to?

A $450,000.

Q What price?

THE COURT: $450,000, he said.

THE WITNESS: I'm sorry.

$650,000.

Q Was that a price that was arrived at after negotiations by you with Mr. Finkel?

A Yes, sir.

Q Were the other terms and conditions of the agreement negotiated by you with Mr. Finkel?

A I doubt if I can remember them all. But there was the term that it would close through Chicago Title and Trust Company -- and escrow company, in an escrow. There is a term that we would advance as part of the down-payment or earnest money a certain amount of money to his law firm and the balance would be in the escrow account. One of the terms was that we would close before June first, I believe.

THE WITNESS: You will have to forgive me, your Honor. I have a very poor memory.

BY MR. KRUGER:

Q Let me refresh your memory because I think that is an important term. I wonder if you might just read the definition of the word "closing" that

appears on page 2 of movant's Exhibit 1 in evidence.

A You want me to read this?

Q Just paragraph C.

A "The word 'closing' shall mean the consummation of the transactions referred to in this contract which shall not occur prior to entry of the final order but in no event later than June 1, 1976, at the office of Chicago Title and Trust Company, 111 West Washington Street, Chicago, Illinois."

Q Was there ever a time in any of your negotiations with Mr. Finkel that he informed you that the price which you had agreed to in this contract would become the minimum price that a public auction of the property in this court?

A No, sir.

Q Was there ever a time when your counsel, Mr. Cavenoy, to your knowledge, was ever informed by counsel to the trustee that the contract that you had entered into would merely become the basis for public bidding in this courtroom?

A No, sir.

THE COURT: What was your understanding of the purpose of the hearing in this court, Mr. Hancock?

THE WITNESS: My understanding was that this would be a formality where you would --

THE COURT: Did you have any other business in New York the day you came into New York for this formality?

THE WITNESS: No, sir.

THE COURT: But you retained counsel and you and your counsel both came to New York to sit in court for a formality; is that your testimony?

THE WITNESS: The purpose was to take the final order, decree, whatever the thing said, and get it back to Chicago Title as quickly as possible.

BY MR. KRUG:

Q The reason for that was that you anticipated a closing before June first, as the contract provided?

A Right.

THE COURT: So you and your attorney both came to New York to make sure that the contract with court approval got back to Chicago in time; is that it?

THE WITNESS: That's exactly right.

THE COURT: All right.

BY MR. KRUGER:

Q When you came to court and met the trustees' counsel immediately outside the courtroom, what did they tell you then?

Who did you meet, did you recall?

A I believe it was Mr. Rotkin, the gentleman with the mustache.

Q What did he tell you?

A He said that there might be somebody else here to get involved with the sale.

Q Did he tell you that it was his intention to open up the sale to public bidding?

A No. There was some conversation with my lawyer, and I can't really say exactly what.

Q I'm just asking what he told you.

A No.

THE COURT: What did your lawyer tell you? Was your lawyer involved in the conversation with Mr. Rotkin?

THE WITNESS: Yes.

THE COURT: What did the lawyer say? He was in the conversation, wasn't he?

MR. KRUGER: Answer the Judge's question.

THE WITNESS: What I got out of it was that someone else may offer a higher price for this property, at which point Mr. Caveney, my lawyer, said that if that kind of bidding is permitted, then we would back out of our contract.

THE COURT: He said that in your presence?

THE WITNESS: Yes.

THE COURT: And in Mr. Rotkin's presence?

THE WITNESS: I guess so. We were out in the hall, all of us together.

THE COURT: Do you want to go on, Mr. Kruger, if you have anything to put in on a case.

MR. KRUGER: I think I do, your Honor, because the answer that the applicant just gave demonstrates the reason why the sale should be set aside and not the obverse of that, for the reason that it will be perfectly proper if one is going to enter

into public bidding with respect to the sale of real property not to have entered into an agreement offering the price in that agreement at which you actually intended to buy the property, if there was going to be public bidding. I don't know if Mr. Hancock would have agreed to buy at $650,000 if he knew that was going to be the minimum floor bid for a public auction in this courthouse, and I think that -- in fact, I was just looking recently at another sale in this courthouse, in a different courtroom, involving a property of W. T. Grant. I happened to be involved with the bids for the real estate.

THE COURT: I don't think we are going to incorporate by reference all of the things that went on inthe Grant case in this case, are we?

MR. KRUGER: No, but I think the point is well taken --

THE COURT: What point?

MR. KRUGER: The point that a prospective purchaser of property who

anticipates buying at a private transaction with the trustee would not necessarily offer in that private transaction the same price that he would expect to be the minimum bid in a public auction in this courthouse, and I think that the notice -- well, I don't know whether you want my argument.

THE COURT: I think that's why AMP is in here, so that we can have a "person aggrieved" because Mr. Hancock certainly is not a person aggrieved by any failure to give proper notice. I don't see where that has anything to do with Mr. Hancock, the fact that notice of the sale to which he was a party was not noticed to all of the other creditors.

MR. KRUGER: I may respectfully disagree. The notice that was given to some creditors in this proceeding was given also to Mr. Hancock's counsel, Mr. Kaveny, and that notice, if your Honor recalls, does not contain the words that ordinarily

appear in orders of this Court with respect to the sale of real property, namely, that at the time of the return date on the Order, the Court will accept other and higher bids. Those words are nowhere present.

THE COURT: All right. I will assume that you argued that Mr. Hancock was misled. He thought that there would be no other bids, that there would be no reason at all for him to apprehend that anybody might make a higher offer and that he brought his attorney to New York to be in court for the formality to be observed.

BY MR. KRUGER:

Q Mr. Hancock, when the actual public bidding began in the courtroom, what was your attitude at that time?

A I was absolutely shocked, to put it in plain English.

THE COURT: You thought you were just coming to New York to have the Court say, "Your offer is approved;" is that right?

THE WITNESS: Absolutely.

THE COURT: You brought a lawyer with you to hear that?

THE WITNESS: Yes.

THE COURT: All right, go on.

BY MR. KRUGER:

Q At the time that the public bidding began, did you change the price that you had agreed to pay for this property?

A Well, at first, when a higher price was offered, my attorney looked at me for instruction and I was totally buffaloed. I just said no. I didn't know what to say. And then as the conversation proceeded, I thought well, I can go a certain amount, but I didn't really know how high I could go. I hadn't considered that. So we went one or two bids -- I don't remember which -- and I lost my temper a little bit and I want to apologize to you for that, Judge.

THE COURT: There is no apology due to me. It was an insult to the Court, I mean, not to my person.

THE WITNESS: But anyhow, I didn't know what my resources were, and so I had to drop out.

BY MR. KRUGER:

Q Then what did you do after you left the Court?

A We went to the airport and started for home and en route on the plane, we got to considering our alternatives and our resources, and as soon as we landed at O'Hare Airport, I called this court, and I don't recall the details, but anyhow left a message that I would like to offer a higher price, and my attorney subsequently sent telegrams confirming all of this to the trustee and to the Court.

Q Are you prepared now to bid $725,000 for this property as your opening bid?

A Yes, sir.

MR. KRUGER: I have no other questions of Mr. Hancock on this matter.

MR. GALOWITZ: No questions. If your Honor please, I would like --

THE COURT: Let the record show that I call upon any party in interest to these proceedings to indicate whether they wish to ask any questions of the witness. Golenbach & Farell do not?

MR. GALOWITZ: That's right.

THE COURT: Do the trustees feel any useful purpose would be served by continuing with an examination of the witness?

MR. YASSKY: No, sir. We have no desire.

MR. KRUGER: I wonder if I might call Mr. Finkel to the stand.

THE COURT: If you want to call him as a witness, call him as a witness.

(Witness excused)

J E F F R E Y F I N K E L, called as a witness on behalf of the movant, having been first duly sworn by the Court, was examined and testified as follows:

THE COURT: Be seated, please.

DIRECT EXAMINATION

BY MR. KRUGER:

Q When did you first get into communication with Mr. Hancock with respect to the sale to him of what we might call the Chicago property?

A I believe I received a phone call from him sometime in March.

Q Did you enter into negotiations with him

with respect to the various terms and conditions of the contract which is now Movant's Exhibit A in evidence?

A Yes.

Q In those discussions and negotiations with Mr. Hancock, did you ever tell him that the agreement that he was signing and the price which he agreed on as the price at which he would buy this property would be the subject for public bidding in this court?

A Not in those words. I could explain. I told Mr. Hancock that there was always the possibility of someone objecting in court on the hearing date due to the possibility of coming in with a higher price.

Q I'm not sure I understood. You said you told him that somebody might object in court to the price?

A No. I explained that the contract of sale was subject to court approval and that the possibility I could see of the contract not being approved was if at the time there was court approval, someone would come in with a higher price, object to the sale because they wanted to put in a higher price.

Q You told him that this would then result in public bidding in the court?

A No, I did not elaborate any further than

that.

THE COURT: Did you indige in the assumption that the average person would come to the conclusion that that might follow?

THE WITNESS: Yes.

BY MR. PINKEL:

Q But the agreement does not so provide anyplace, does it?

A I don't recall.

Q Are you familiar with the agreement?

A With the basic terms, yes. I'm not familiar with every passage or line in the agreement.

Q Are you familiar with the notice with respect to the approval of that contract sent out by your counsel?

A I don't recall the wording of the notice.

Q Would you be surprised to find that it makes no mention of the fact that other or higher bids might be received at that time and that the hearing that was called is a hearing only for the confirmation of the application and Mr. Hancock's agreement?

A I basically don't have any opinion on that matter.

Q You have no opinion on that matter?

MR. GALOWITZ: Could I object to this line of questioning? The document speaks for itself. What this witness's opinion is or is not is wholly irrelevant to this proceeding.

THE COURT: No. It's an attempt to explain, I think, what appears to be the gross ineptness of Mr. Hancock in understanding what was the purpose of the hearing in court to consider his offer.

BY MR. KRUGER:

Q Did you tell Mr. Hancock that you thought that the hearing in court to consider his offer would be a routine one?

A I felt there would be no problems at the time we discussed this, for the reason that at that time his was the only offer. The negotiated price was in line with the appraisal, and at that time there was no one else interested in the property.

Q Isn't it a fact that no one had been interested in this property since the beginning of the proceeding, until Mr. Hancock made the offer?

A That is not true. We have had numerous

negotiations, several that fell through on the last minutes, and at the time that Mr. Hancock made his offer, we had another offer which was much lower which we turned down.

Q What was the appraisal price of this real estate?

A $650,000.

Q What was Mr. Hancock's bid?

A $650,000.

Q Did you tell him before he bid what the appraisal price was?

A No.

Q You just selected that as the price in negotiations?

A No. We negotiated the price. I told him that it was in line with the appraisal. Therefore I did not anticipate any objection by the Court to his purchase price.

Q After Mr. Hancock entered into this agreement with you, did anybody else call you to suggest that they would like to buy the property?

A Yes, they did.

Q What did you do with that information? Who called you?

A I received a call from Mr. Bernard Sussman, and he suggested that he had a client who was willing to buy the property. I told him at that time that -- I didn't give Mr. Hancock's name -- that we had already entered into a contract with someone else.

Q You did not tell him that he could come to court and bid on that date?

A When he asked me what he could do, I told him that he could come to court at the date of the hearing and object to the sale, and I suggested that he speak to our attorneys.

Q And just object to the sale, not bid?

A No. To speak to our attorneys and if he wanted to put in a bid, to do so at that time.

Q Did you ever have occasion to discuss this agreement and the proceedings in the court with Mr. Kaveny, Mr. Hancock's counsel?

A I only spoke to Mr. Kaveny once on the phone while on the line with Mr. Rotkin, who is counsel for Shea, Gould, and we discussed some of the terms of the contract.

Q In that conversation, did either you or Mr. Rotkin inform Mr. Kaveny that this contract would be the basis for public bidding in the court?

A No, I did not. We did not.

MR.KRUGER: I have no other questions of this witness, your Honor.

THE COURT: Any questions?

MR. GALOWITZ: Yes, I have a few questions, if your Honor please.

CROSS-EXAMINATION

BY MR. GALOWITZ:

Q Did you have a conversation on May 11th with Mr. Hancock?

A Yes, I did.

Q Was this a personal conversation, telephone or otherwise?

A It was by telephone.

Q Did you call him, or did he call you?

A I believe I called him.

Q Could you tell me what you said to him and what he said to you at that time?

A At that time I told Mr. Hancock that we had received word that another party --

THE COURT: This was on May 11th?

THE WITNESS: Yes.

-- had just informed our attorneys that they would be coming into court for

the possibility of submitting a higher bid to purchase the property. At that time I suggested to him either -- I told him that it would be a bidding situation and that either we could -- if he wants to authorize our attorneys, they could bid for him, or I suggested he or his attorney come into court on the hearing date if they wanted to stay in the running for the property.

BY MR. GALOWITZ:

Q How long prior to the hearing date did that occur?

A I think it was about six days.

MR. GALOWITZ: I have no further questions.

REDIRECT EXAMINATION

BY MR. KRUGER:

Q That conversation you had with Mr. Kaveny?

A Mr. Hancock.

Q That conversation took place on May 11th?

A Yes.

Q You told him at that time that he should

come to court prepared to bid?

A I told him that either he could authorize our attorneys to bid on his behalf, or he or his attorney should come in at that time to bid.

MR. KRUGER: I have no other questions of this witness. I would like to recall Mr. Hancock.

MR. FELLER: May I ask one or two questions.

EXAMINATION BY MR. FELLER:

Q Mr. Finkel, had the closing of the sale been consummated?

A No, it has not.

Q When is that closing contemplated?

A It was contemplated for June 25th, but it had been postponed due to this hearing.

Q Has a closing date been fixed?

A Not yet. It's still open at this point.

MR. FELLER: I have no further questions.

THE COURT: Is that all of Mr. Finkel?

MR. KRUGER: I have one more question for him.

BY MR. KRUGER:

Q You said that you were somewhat familiar with some of the terms of this agreement. I wonder if I might refer, since you now have discussed the question of a closing on this property, to page 2 of Hancock's Exhibit 1 in evidence and ask if you can read the words "final order" and the definition of them that appear at the top of page 9.

A "The words 'final order' shall mean an order issued by the District Court having jurisdiction of the proceedings for the reorganization of the seller, number 74B 614-802, inclusive, after notice by the means and to the parties designated by the District Court and a public hearing before the District Court, at which time to appeal or further to appeal has expired, and which grants to seller the legal authority to enter into and to observe, fulfill and perform all of the terms and conditions of this contract and the option agreement."

Q So it is your understanding, then, that until there is a final, non-appealable order of this Court, that no closing may take place?

A My understanding was that once there was an order, a closing could take place, except that it

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was open to appeal after the order is entered into.

MR. KRUGER: I have no other questions of this witness, your Honor, but I would like to recall Mr. Hancock.

THE COURT: All right, thank you very much.

(Witness excused)

J O H N H A N C O C K, recalled as a witness, having been previously duly sworn, was examined further and testified as follows:

THE COURT: I remind you, you are still under oath. Be seated, please.

EXAMINATION BY MR. KRUGER:

Q Did you on May 11th, 1976, have a telephone conversation with Mr. Finkel?

A I might have.

THE COURT: Did you or didn't you?

THE WITNESS: I have no idea, sir.

THE COURT: Do you mean to say that in a matter of this type, you can't remember back to May 11th, as to whether you had a conversation with Mr. Finkel concerning this fairly large transaction?

THE WITNESS: I had several

conversations with him in that week.

Q Is it the date you are unclear about?

A Yes. It might have been a Tuesday, a Wednesday or a Thursday. I did have a conversation with him the week before we came here.

Q Did he in that conversation alert you to the fact that there might be someone else interested in the property?

A Yes, he did.

Q Did he at that conversation tell you that you should either come to this hearing on the 17th of May prepared to bid, or have your attorneys prepared to bid, or authorize the trustees' attorneys to bid on your behalf?

A No, he did not.

Q In any way, shape or form did he suggest that at all to you?

A He said that he thought someone else might be here to object. He did not give me the names of any parties who might --

THE COURT: He didn't specify the grounds on which that objection might be based?

THE WITNESS: That's right.

THE COURT: What else did he tell you?

THE WITNESS: To the best of my knowledge, that's all that the conversation was about.

THE COURT: He called you up and said there is somebody else who might be coming into court to object, and then that was it?

THE WITNESS: Yes.

THE COURT: All right.

BY MR. KRUGER:

Q Did you ask him who might that person be?

A Yes, I did.

Q Did he tell you?

A No, he did not.

Q Did you ask him whether they were objecting --

THE COURT: I think you are leading.

I think he said he gave us the entire substance, but now you are giving him further material. But go right ahead.

MR. KRUGER: Nobody else seems to mind.

Q Did you in that conversation -- I think

you gave only Mr. Finkel's side of the conversation. What questions did you ask of Mr. Finkel in that conversation, in addition to the one as to who the prospective other interested party might be?

A Offhand, I can't recall asking any other questions. I might have asked what hour of the day this hearing was for, or something along that line.

MR.KRUGER:I have no other questions of Mr. Hancock.

THE COURT: Does anybody else wish to examine the witness?

(No response)

MR.KRUGER: I would like to address myself to the issues aside from the facts, which I think are now, at least to my mind, in conflict as between representatives of the trustees and the applicants as to what the nature of the conversation was and what applicants believed to be the circumstances upon his arrival in court on the morning of May 17th.

MR. GALOWITZ: Prior to any argument being made, there is one other item of evidence that should come in. There is

an affidavit before this court of Mr. Rotkin, who is an attorney from Shea, Gould, who is sitting in court, and I don't know whether your Honor thinks it would be necessary to call him to the witness stand to testify as to the substance of his affidavit.

It is to the effect that he had a conversation with counsel for Mr. Hancock approximately five days prior to the hearing and he advised him of the fact of what would occur at the hearing and he warned him of the substance.

THE COURT: Have you seen the affidavit?

MR. KRUGER: Yes.

THE COURT: Are you willing to stipulate that if Mr. Rotkin testified, he would testify according to the tenor of this affidavit?

MR. KRUGER: I would like to ask him a question, though, with respect to his conversation, if I may.

THE COURT: You don't so stipulate. Then do you call him as a witness?

MR. KRUGER: Yes. May I call him as a witness.

G I L B E R T R O T K I N, called as a witness on behalf of the movant, after having been first duly sworn by the Court, was examined and testified as follows:

THE COURT: All right, sir, be seated, please.

Would you give the reporter your full name, your residence address.

THE WITNESS: Gilbert E. Rotkin, 211 Thompson Street, New York City.

DIRECT EXAMINATION

BY MR. KRUGER:

Q In your telephone conversation of May 12, 1976, which is referred to in your affidavit which has heretofore been submitted to the Court -- and I just disclose for the record that I ought to have it marked as Movant's Exhibit 2 in evidence.

(Affidavit of Gilbert E. Rotkin wasmarked Movant's Exhibit 2 in evidence)

Q -- did you indicate to Mr. Maveny that there would be public bidding in this court with respect to the property?

A I did not use the words "public bidding." I said someone might come into court and offer more and might take it away.

Q What did you assume if someone came into court and bid more for the property?

A Quite frankly, I didn't know what to expect because I had not been to any hearing like this before, so I offered no opinion to anybody about it.

Q You did not suggest there woudl be public bidding?

A No, I did not use the words "public bidding."

Q Merely that they might take the property away if a higher bid was made?

A That's right.

Q Did you anticipate there would be new negotiations for a higher bid in a new contract?

A No, I did not use those words. I anticipated that we would use the same or substantially similar contract at the higher price, which was accepted by the court.

Q Mr. Rotkin, did you prepare the notice that was sent to certain creditors and parties calling for the hearing of May 17, 1976?

A No, I did not prepare it.

MR. KRUGER: I have no further questions.

THE COURT: Any other questions?

(No response)

THE COURT: Anything else on this, Mr. Kruger?

MR. KRUGER: Not by way of examination of witnesses. But I would like to speak to the issues involved.

THE COURT: First, who appears for AMP?

MR. EVERITT: I do.

THE COURT: Do you wish to present a case?

MR. EVERITT: No. We have submitted a brief and our position is stated in the brief, your Honor.

THE COURT: I read the brief and I was intrigued by the fact that there is no application. It incorporates by reference the Hancock papers. An allegation is made in the papers that AMP might have gone out to solicit other bidders. Is this so?

MR. EVERETT: My understanding is that is correct. They may have, your Honor, but I do not know.

THE COURT: Do you have an affidavit from anybody in AMF that in these circumstances they do go out and solicit higher offers?

MR. EVERETT: No. We could obtain it.

THE COURT: I'm intrigued at this because, as I understand it, there is about $150 million of debts, and AMF is a creditor for about $160,000, which means that if the Hancock offer were accepted, it would bring in around another $40,000 for AMF.

MR. EVERETT: It's my understanding that the Hancock offer, the new offer is --

THE COURT: And it's appraised for $650,000, but somebody made an independent judgment in AMF.

MR. EVERETT: I don't know that. But our understanding is that Hancock is now coming in with a $725,000 offer which is his bottom price, and he's willing

to go higher.

THE COURT: Has anybody in AMF come to a conclusion, though, as to what it thinks would be a higher figure that conceivably might come in? Has anybody in AMF looked into the factual background of this matter?

MR. EVERETT: That, I do not know, your Honor.

THE COURT: All right.

Mr. Kruger?

MR. KRUGER: Two things, your Honor.

First, we have prepared a memorandum of law which I would like to submit to the Court this morning.

I would like to comment on the proceedings with respect to the sale and give you those reasons which I believe are cogent and reasonable ones why the sale should be set aside and re-noticed properly under the provisions of the Bankruptcy Act and Rules.

THE COURT: First, let's go to the alleged impropriety. What do you claim is

the impropriety?

An order was made directing notice to certain identified individuals, correct?

MR. KRUGER: That is correct, your Honor.

THE COURT: And the rule says that the Court can provide for notice other than for to all creditors?

MR. KRUGER: That's correct. But in this proceeding, the notice itself and the application with respect to which parties were to receive notice stated that the notice would go to those parties who had appeared in this proceeding, your Honor. AMF is a party which has appeared in these proceedings. It did not get notice of it, and unfortunately their counsel present in court today is not aware of the facts which I am aware of, that AMF has identified another buyer for this property who is willing to come in and bid.

THE COURT: AMF has identified another buyer?

Well, AMF's counsel does not know

anything about it.

MR. EVERETT: I should have told you that the attorney handling this is actually on trial in Mineola.

THE COURT: If he is too busy to come in and handle this case --

MR. EVERETT: It's not a question of "too busy." He's actually engaged before Judge Wilkes in Mineola and has been there since last Monday and he is there today, so that is the situation here.

THE COURT: Go on, Mr. Kruger.

MR. KRUGER: As I said, the notice that was actually given was not a notice that went to all who had appeared in this proceeding.

THE COURT: Let's shortcut this. Mr. Yassky, would you put on the record the determinant factors that decided who would get notice of these proceedings?

MR. YASSKY: Yes. As your Honor is aware, there are over 9,000 creditors in this proceeding. We have had applications on various matters of at least equal

importance to this for the past two years, maybe on a weekly basis. We have been sending notice to all persons who filed statements under 210 or 211 of the Bankruptcy Act or any parties to the particular application. So that we have been sending notices to all parties who have evinced any interest in the proceeding by appearing here throughout the two years or who have filed statements under 210 or 211 of the Bankruptcy Act.

But we have not sent notice to every creditor or shareholder of every application because the costs would be prohibitive in the trustees' judgment.

MR. KRUGER: I don't doubt that, your Honor, and I'm not here to suggest that Mr. Hancock's complaint is with the number of creditors who received or did not receive this notice.

THE COURT: What is his complaint? Does he complain that he was not aware of the fact that there might be other bidders?

MR. KRUGER: I think that's abundantly

clear from the testimony.

THE COURT: The testimony establishes that Mr. Kaveny was told somebody else might come in and bid. Mr. Hancock and Mr. Kaveny were told before the case was called that there was another bidder. We have competent --

MR. KRUGER: That's not what they were told. They were told there was somebody else interested in the property, and in point of fact at the actual hearing which took place in this court, as the transcript demonstrates, it was only that the application had to be amended in order to permit the public bidding that took place when Dominick's Finer Foods started to bid.

Mr. Kaveny and Mr. Hancock came to this court, as well they might, having received no information from anybody prior to that time other than there was somebody else interested in the property. By the way, a non-function event in real estate transactions is to tell somebody who has

just purchased a piece of property for $650,000 that you just made the greatest buy of a lifetime because we got three other buyers today who bid a lot more for it. Even under those circumstances, I think --

THE COURT: Mr. Hancock is complaining that he didn't get away with a theft?

MR. KRUGER: No. I wish your Honor would permit me to just --

THE COURT: Go right ahead.

MR. KRUGER: He is complaining about, first of all, that nobody ever told him that his contract and his purchase price which was the equivalent of the appraisal of this property was going to be the basis for public bidding in this court, number one.

Number two, that the Notice of Hearing which was sent out and which he received via his counsel also did not say that other or higher bids would be accepted.

Thirdly, when he found out that there was going to be bidding in this

courtroom for the property, he was totally unprepared to bid. After all, as your Honor recognized, the sum of $650,000 for an individual purchaser is not an insignificant amount, and I think quite properly, under those circumstances, that maybe a greater opportunity than that which even the Court suggested, perhaps a 15-minute recess might have been appropriate.

I think if there was to be public bidding in matters of this size, I really believe that Mr. Hancock was entitled to know that, to know that before the eve of his appearance in a hearing with respect to that and properly prepared himself.

I think, quite frankly, he should have been told that at the inception of his negotiations with Mr. Finkel because, in a sense, when a purchaser comes along and signs an agreement for the acquisition of real property from the estate of a bankrupt in a reorganization, he is entitled to know the ground rules under which he is negotiating, and if one of those

ground rules is that his purchase price and his contract is merely the floor for bidding that is going to take place subsequently, then I would submit, your Honor, that an intelligent prospective buyer for this property would not offer necessarily a fair and reasonable price for it, or a proper price for it, but perhaps a lower price for it on the assumption that he had best be prepared in court when others come in to bid to raise his price and to offer a solid and proper consideration and, quite frankly, the hearing before the Court as it was scheduled would have led one to believe that the only purpose of the hearing was for the Court to pass upon the adequacy of consideration and I would have expected that there would have been testimony on that day or an appraisal submitted to the Court beforehand, usually in confidence, that the prospective buyer does not know what the appraisal said, submitted to the Court so that the Judge might satisfy himself, since it is a proper judicial sale,

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that the purchase price offered is in conformity with the true value of the property.

I think this is a far cry from an individual who signs a contract, nobody informs him of the nature of the fact that it's going to be the basis for public bidding; he comes to court unprepared to find himself engaged in public bidding and, quite properly, the trustees indicate that, all of a sudden, they were surprised that there was going to be public bidding because the trustees' attorney said that the trustees were bound by the agreement with Mr. Hancock, but if there was going to be a higher price, obviously they would have to accept a higher price.

But at the same time they didn't indicate at that time that they were going to have a higher price negotiated or set by a public auction in this court.

I think that the words that ordinarily appear that there is to be a sale of real property in this court

always contain the words "or other or higher bids." I have checked every form book that I could find, Collier's, Remington and the like, and every single form I have seen in this district where I have practiced for five years always has those magic words, and without those magic words, I believe that this applicant, who was a bona fide purchaser of this property, was not given a proper opportunity in his buying the property or in his coming to court to bid for it, both to his disadvantage as well as to the disadvantage of the estate, and I think that the notice sent out as it was does not indicate to recipients of the notice that they might come to court and offer other or higher bids. It would appear to me that the only person receiving a windfall in this case would be Dominici's and it seems to me, your Honor, that since there has been no closing in this case and since --

THE COURT: I don't know why there

hasn't been. I refused to stay it.

MR. KRUGER: Under the terms of the agreement entered into by the parties a closing could not take place until a final order, non-appealable order of this Court had been made and, quite frankly, the order --

THE COURT: Has an order been entered yet?

MR. KRUGER: The order of the Court has been appealed, your Honor, as your Honor knows, and I don't believe that a closing can take place until that appeal is settled.

But, in any event, it would appear to me that there not having been a closing, no harm would occur, certainly to this estate or to its creditors, all of whom would benefit by a resale of this property, if a sale was scheduled on proper notice to creditors, and I believe the proper notice period is 20 days, as well as Mr. Kaveny and Mr. Hancock [illegible] properly that [illegible] are [illegible] to this Court

to participate in a public auction. The only thing that we know would result from that is that the estate of the debtor would be enhanced by an amount not less than $40,000, and I have information, which I'm sorry AMF's counsel cannot confirm here today, that AMF identified other buyers, your Honor, and quite frankly --

THE COURT: No. I called on AMF to give me the factual basis for that statement. I mean, when this record goes up, it's not going to go up uncontradicted that AMF does have buyers in the background, Mr. Kruger. If you want to make that the subject matter of evidence, put on competent testimony to that effect.

MR. KRUGER: I will not make that the subject matter of evidence, your Honor. But it would seem to me that when you sell a retail store in a business that has been engaged in business, in retailing, that it would not be inappropriate to allow manufacturers who sell to retailers the opportunity to know about their sale

so they might find out if their customers are interested in what may be a valid sale.

THE COURT: That's entirely speculative.

MR. KRUGER: I would think that although there are 9,000 creditors, perhaps a notice to creditors in excess of $100,000, which would certainly have cut the group substantially, would not have been improper or inadvisable in a situation of this kind.

There was no showing --

THE COURT: Mr. Hancock complains that notice wasn't sent out so that competition could come in to try to outbid him?

MR. KRUGER: No, he is not making that complaint. I am merely making the point that that is a benefit --

THE COURT: That's what A&P says.

MR. KRUGER: No. That would be a benefit that the estate of the bankrupt would receive from a proper notice sent to what I would believe to be a proper

group of creditors.

THE COURT: But Mr. Hancock is not a person aggrieved.

MR. KRUGER: He is. I will be happy to submit --

THE COURT: How was he aggrieved by failure to send out notice to other persons?

MR. KRUGER: He was aggrieved by two reasons: a proper notice to him to inform him that there would be other and higher bids accepted inthis court. All I'm saying is that there are benefits to be derived from a sale, a proper public sale in this courtroom, and there will be no detriment suffered by anybody and that, quite frankly, based on the fact that there is a dispute between Mr. Hancock and Mr.Finkel as to what each of them understood to be happening here on the date in court, that a proper way to preserve and protect the integrity of a judicial sale is to set aside the prior sale and now conduct a sale in which Mr. Hancock -- who, after all, is entitled to some consideration in

this proceeding, having made the original bid, having negotiated the contract, having now come to this court three times and never been able to participate properly in a real sale of this property.

I think that is not unreasonable, that the estate would benefit and no one would be disadvantaged. The only one who might be disadvantaged would be Dominick's, and I would submit the disadvantage to them is not a disadvantage to them but, rather, that if they are to prevail under these circumstances, they would merely find themselves having received what I would suggest is a windfall.

Your Honor, with respect to the standing of Mr. Hancock to complain in this proceeding, there is an Eighth Circuit case of somewhat similar circumstances where Mr. Hancock or some applicant like him was deemed a person aggrieved under 39(c) of the Statute and with a right to complain to this court with respect to the opportunity to set aside a hearing

and prosecute an appeal under these circumstances.

I would respectfully request that the Court set aside this sale and that the trustees be directed to send out a notice to whatever number of creditors or proper parties the Court deems correct, based on a showing by the trustees as to what they deem correct initially, and that that notice indicate clearly so that one and all who receive it would know that there is to be public bidding for this particular parcel of property and that there will now be a minimum upset price of $725,000 which will be offered by Mr. Hancock as the opening bid at public auction.

I think that could be accomplished promptly to no one's disadvantage and to the advantage of the estate and its creditors.

MR. YASSKY: On behalf of the trustees, I would like to add a couple of facts to the record. The trustees obviously

are not adverse to getting more money.

THE COURT: It's their duty to aggregate as large an estate as proper, but in accordance with the proper rules of substantial justice.

MR. YASSKY: As we understand the thrust of Mr. Hancock's argument, it is that he did not receive adequate notice that there would be competition for this property and that he could be outbid at the hearing.

We think the record makes it abundantly clear that that's not so and so --

THE COURT: It shrieks with it.

MR. YASSKY: And that he certainly received notice and was prepared.

With respect to the notice that was sent out on the sale, this property was sought to be sold by the trustees for almost two years. I think it can be fairly said that any interested party in the entire Chicago area was aware that this property was for sale. The notice of the

hearing that went out was not for the purpose of soliciting more indications of interest in the property. The trustees certainly felt that they had done their duty in that regard for quite some time.

As I said before, to send the notice to all parties certainly would not be in the best interests of the estate.

MR. KRUGER: If I may for just a moment, Mr. Yassky says that the record is clear with respect to the fact that there was notice that there was going to be a public sale. We just had on the stand one of Mr. Yassky's associates from his own law firm who was the one who told Mr. Kaveny that there was another prospective person interested in the property. He didn't understand that there was going to be public bidding in this courtroom. If he didn't understand that, how would Mr. Hancock understand that?

THE COURT: By reason of the fact that Mr. Pinkert testified very clearly that on May 11th he told Mr. Hancock

that it would be a bidding session. When Mr. Hancock was pressed, he just had no recollection. He didn't deny that that took place, and I find it incredible that if it had been told him, he wouldn't remember it.

MR. KRUGER: That's not what Mr. Finkel testified to.

THE COURT: The minutes will show what Mr. Finkel testified to.

Does anybody other than Dominick's wish to be heard?

MR. FELLER: Yes.

THE COURT: Do you wish to be heard briefly, Mr. Galardi?

MR. GALARDI: Yes, I will make it very brief.

The facts that have been testified to the Court really speak for themselves in this matter. The crux of the application by Mr. Hancock is really, when one boils it down to its very essence, that a man, after coming to court, [illegible] what he intended to do and what was going

to occur in court, decided to change his mind, and after the presence and after the opportunity to make a particular bid at court was amply given to the man where he was advised of it six days prior to the court hearing exactly what might take place in court, his attorney was again advised five days prior to that time, there were conversations that took place out in the corridor.

The transcript abundantly indicates that the Court time after time gave him the opportunity to consider what he wanted to do, to ask for additional time if he felt that it was appropriate to ask for additional time, and he declined. He first went up by, I think it was, $25,000 or some amount. The offer was then increased from $10,000 and then he declined to go any further at that time.

After ample consideration, after being offered the opportunity of the Court for further consideration.

If your Honor please, this is an

indication of a man who just decided at that time that this was as high as he was going to go, and on the plane going back to Chicago, he had a different point of view and he tried then to come back in and upset it after the fact.

Your Honor, I submit that if we permit this kind of thing to take place, the orderly procedure of this bankruptcy court will fall to pieces: that I see absolutely no reason in the world why, if this application is granted and another session takes place, that I cannot then go back to my office in midtown Manhattan and go to a Western Union office and send a telegram here and start all over again.

There has to come a point where, after a man is given fair and ample notice of what is going to occur, that we put an end to it, that the hammer falls, if this is considered bidding, and although Mr. Hoover has been consistently referring to this as a bidding [illegible]

auction session, I don't think that's what occurred at all. I personally was present and, as I recall what took place, it was exactly in accordence with the notice to the Court, that a determination was made whether or not a particular contract should be approved by the Court. The principal consideration that the Court had was the adequacy of the consideration. There was no better evidence in the world, that I know of, or the adequacy of consideration than another individual that's prepared to pay a higher price, and that's all that took place at that time. There was no public bidding. There was no auction, and the Court did exactly what was required in the notice, and Mr. Hancock was perfectly aware of that, and had that opportunity.

Just briefly one or two other comments.

Mr. Hancock's statements that he was unaware of this telephone conversation six days prior is absolutely unbelievable to me. I cannot understand why a man comes into

court from Chicago to pick up papers. I don't do business that way, and I rather doubt whether Mr. Lancock does business in that manner.

Just one other point. The question was asked as to why we have not closed title to the property at this time. We are prepared to close title to the property. We have the capacity and the authority under the existing agreement to close because that agreement provides, not as Mr. Kruger has been stating that it is waiting upon any appeal, but that when the time to appeal has expired. The time to appeal has expired. I understand that a notice of appeal has been filed in there, but no stay has been granted by any court. Stays, I understand, have been applied for and denied. As far as I am concerned, the parties are perfectly competent to proceed through, and I would like to proceed through to a sale. There [illegible] I don't [illegible] come it at this point, and that's a

courtesy to Judge Ryan in that we did not want to proceed with a sale -- both the trustees' counsel and myself did not want to proceed to a sale when these motion papers were flying in different directions and Judge Ryan did not have an opportunity to look at the matter.

THE COURT: All right, Mr. Feller.

MR. FELLER: Your Honor, I think, witnessing the argument this morning, perhaps the parties have become a bit too emotional on this subject, and perhaps focused their attention away from what is primary. I do not believe that it's at all that relevant the state of mind of Mr. Hancock a week prior to the hearing. The record is properly arguable on both sides. The fact of the matter is that Mr. Hancock did appear in court at the hearing on May 17th and he was confused. I think, if anything, the record indicates that, at least that.

THE COURT: He thought he was at fun and games. That was his remark when he was finally called upon as to whether

he wished to increase his offer.

MR. FELLER: I recall that statement and, of course, I here as a representative of the Commission, addressing myself to this issue, certainly don't represent Mr. Hancock; I don't represent Dominick's Finer Foods. I do represent the public interest here. I do represent the larger estates, the many creditors, many stockholders having a pecuniary interest in this estate, and of course as Mr. Yassky has indicated, the trustees are not adverse to bringing more monies into this estate and, of course, I'm sure that your Honor is similarly not adverse to bringing more monies into this estate.

The fact of the matter is that a judicial sale is not finalized until an order is entered, and whatever the reason may have been -- I don't know; I can't probe into Mr. Hancock's mind. I don't think your Honor could He did [illegible] of an order that he was ready, willing

and, I would assume, able to increase his bid. I do not know why an order was not entered. I do think that the estate, the creditors and the stockholders over here should not be deprived of the additional consideration that could be had in the sale of this property. As has been indicated, this bid is a minimum upset price. It may even be increased.

Under that circumstances, I do not believe that anyone would be prejudiced, other than the estate itself, were this matter not reopened for future bidding.

THE COURT: Other than the successful buyer, who does have some rights in this court of equity.

MR. MILLER: Well, this is, of course, a court of equity. The buyer, Dominick's Finer Foods, is an individual, and the Court is a court of equity. I think the trustees and the parties have to weigh the equities of the buyer, together with the other interests in the estate.

THE COURT: I think we can shortcut

it, though. There is a claim of inadequate notice. As I explained, that notice is the notice we have been using in many important matters. It is notice that goes out to the persons who have participated meaningfully in the reorganization proceedings to date. It would be an absurdity to send out 9,000 notices every time anything of importance was to take place in the estate. The notice was entirely proper.

Even though Mr. Krugar wants to incorporate by reference all the learned form books, there are only two, Collier's and Bender's, that are of any significance. I don't have any forms that indicate they will always have the magic words. To me, a hearing on an offer means that that offer is up either to be accepted or not, and one of the reasons it will not be accepted is if a higher bid comes in. That's all that happened here. It's that simple.

MR. FELLER: May I continue?

THE COURT: Surely, Mr. Feller.

MR. FELLER: I cannot agree more with the Court. I think it could be presumed when a matter is up, a piece of property is up for judicial sale, the Court is, in effect, the seller of the property and is obligated to realize the highest bid, and the fact of the matter that Mr.Hancock may have perhaps wished that another bidder would not have come in would certainly not preclude the Court to take a higher bid at the hearing. There is no question about that.

THE COURT: All right. So then why shouldn't the higher bid be accepted, Mr. Feller, it boils down to this?

MR. FELLER: The higher bid, it would appear, should not be accepted over here in view of the fact that the contract-vendee who appeared at that hearing, Mr. Hancock, was confused.

THE COURT: How could the man be confused? He was met outside the door and told there is someone else here who is going to bid. What type confusion?

MR. FELLER: I am not here on behalf of Mr. Hancock. He did wire the Court.

THE COURT: It does require a competency hearing.

MR. FELLER: He did wire the Court, he did advise the trustees on the same date of the hearing, prior to the entry of an order.

THE COURT: But as Mr. Galowitz points out, if we were to do this every time we have an auction sale or any other type of judicial sale, any time anybody goes home and decides to second-guess, they can just call up the Court or send a telegram and the successful buyer is then deprived of his gain. To me, it's a very simple proposition here.

MR. FELLER: If I may, the Court had indicated that it is not too desirous of hearing what had transpired in the W. T. Grant hearing.

THE COURT: I was there for a couple of hours on the many days that those things were going on.

MR. FELLER: I can feel impelled to advise the Court of something thatoccurred in that case, because it wasn't -- it did involve --

THE COURT: Is that where an offer, though, went from about $40,000 to several hundred thousand?

MR. FELLER: An offer was substantially increased.

THE COURT: I am familiar with the case. I read the decision by Judge Wyatt affirming Judge Calgay because Judge Galgay had said, "Look, this sale is not final until I sign an order." As opposed to that, I said to Mr. Hancock several times, giving him fair warning, and then I concluded the hearing. It was my intention that that sale be concluded then and there. In the Grant matter, Judge Galgay expressly made known that those sales were not to be complete until he made an order of confirmation. I am familiar with the problem in the Grant Stores case.

MR. FELLER: I do believe the contract

over here had a similar provision, that the sale would not be final, indeed as is law, until an order of confirmation is signed by the Court.

THE COURT: Not an order. Getting court approval. I think I clearly approved the offer of Dominick's, and the order of confirmation merely implemented that approval, that approbation.

I don't mean to cut you short, Mr. Feller. I'm trying to discuss with you. I know that you have been here representing the public interest and you are a true amicus curiae. But I have taken the opportunity of discussing with you each of the points as you brought them up.

MR. FELLER: I appreciate that, your Honor.

I would just, in conclusion, add that as far as we could ascertain the law on the situation, a finalization of a judicial sale is not accomplished until there is an entry of an order of confirmation. A highest bidder at a judicial sale is merely

in effect a proposal that that offer will be recommended and until the Court actually signs that order, the matter is still subject to reopening, and I would think that under the circumstances over here, the equities would tend to lean in favor of the larger community of interests that would certainly be interested in realizing as much as possible for the sale of this substantial piece of property.

THE COURT: All right, Mr. Feller, I have given that full consideration. As I indicated before, it's a difference of $40,000 in a $150 million estate.

MR. KRUGER: Just two things. One, I think that the $40,000 difference really should not be the determining factor. Frankly, we are prepared to bid substantially more than that, should there in fact be a public auction of the property. I only wanted to say two other things, and I will have said my piece for the day, I think.

First, it now seems to me that Mr. Rothin did not know what this transaction

was in the courthouse, and I now gather the representative of Golenback and Barell didn't think it was a public sale or public bid, either. In point of fact, in the transcript, your Honor, Mr. Yassky says that he would like to make it clear for the record that the trustees have entered into this agreement in good faith with Mr. Hancock and certainly would abide by the terms of the contract.

"However, it is certainly a subject of this Court's approval and with the higher offer presented to this Court today, I believe that the trustees have no choice but to accept the higher price."

Mr. Yassky obviously did not come to Court prepared to find public bidding and then, your Honor, after Mr. Yassky's remarks, went on to say that "Mr. Yassky, I am prepared to approve your application and to amend this hearing to one to accept the offer made by the principals represented by Golenback and Barell."

I would suggest that all of that

indicates that really no one came to this courthouse that day expecting there to be public bidding on this property, least of all Mr. Hancock. I think, therefore, that his interests and that of the court as well as the creditors -- I think enough has been said on their behalf by the representatives of the SEC -- that this sale should be set aside and it should be opened to proper bidding and proper public sale.

THE COURT: To set aside this sale would work a travesty of justice, in my opinion. Entirely adequate and proper notice was given. Anybody with a modicum of intelligence would have to realize that if a higher bid were made in court at that time, it would be considered. I fully credit Mr. Finkel's testimony that he told Mr. Hancock on May 11th that there would be another bidder in the offing. Further, before Mr. Hancock and his attorney entered the courtroom, they were told clearly that there was going to be bidding. During the

sale he was given entirely adequate notice and an opportunity to consider if he wished to meet the higher offer. It would work a gross injustice on Dominick's if this sale were to be set aside.

I will ask you to settle an appropriate order with succinct findings and conclusions.

Off the record.

(Discussion off the record)

MR. KRUGER: May I request until that order is issued and approved by the Court that no closing be had and that the parties be stayed from proceeding to closing pending the entry of that order?

THE COURT: No. Application for stay is denied.

MR. KRUGER: Could you endorse that perhaps on the reverse?

THE COURT: You don't need it. You can get the minutes out overnight. Mr. Metz will be very glad to transcribe them, and you don't need a written order to take an appeal.

MR. YASSKY: Thank you, your Honor.

MR. KRUGER: Could we have a stay until the minutes are prepared?

THE COURT: You don't need one. You can run right up to the District Court now.

MR. GALOWITZ: Will you note for the record, I would like to be present before Judge Cannella on that and I would request Mr. Kruger not to appear ex parti on any application for a stay. Is that agreeable?

MR. KRUGER: It's my intention to go right now, directly upon leaving the Court.

(The matter was closed)

PLEADINGS DOCKETED

Transcript of Proceedings Had on 6/28/76
Before the District Court

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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In the Matter of :

INTERSTATE STORES, INC., :
formerly known as :74 B. 614-802
INTERESTATE DEPARTMENT STORES, INC. et al.:

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B E F O R E:

HONORABLE JOHN M. CANNELLA,
District Judge

New York, New York
June 28, 1976--3:00 p.m.

A P P E A R A N C E S:

KRAUSE, HIRSCH & GROSS, ESQS.,
Attorneys for John Hancock
BY: KEWIS KRUGER, ESQ.,
JOSEPH SAMET, ESQ., of Counsel

GOLENBOCK and BARELL, ESQS.,
Attorneys for Dominick's Finer Foods, Inc.
BY: SAM W. GALOWITZ, ESQ., of Counsel

SHEA, GOULD, CLIMENKO, KRAMER & CASEY, ESQS.,
Attorneys for Trustees of Interstate Stores
BY: LESTER YASSKY, ESQ.,
GILBERT E. ROTKIN, ESQ., of Counsel

ROGERS, HOGE & HILLS, ESQS.,
Attorneys for Creditor AMF, Inc.
BY: KENNETH L. EVERETT, ESQ., of Counsel

JEROME FELLER, ESQ.,
MERYL E. WIENER, ESQ.,
Attorneys for the SEC

ALSO PRESENT: JEFFREY H. FINKEL

B1 (Case called.)

MR. KRUGER: Ready, your Honor.

My name is Lewis Kruger, a member of the firm of Krause, Hirsch & Gross, counel for the applicant in the hearing before your Honor this afternoon.

By way of background I will try to summarize the facts in as short a fashion as I can. Our client, John Hancock, an individual, not the insurance company, but with the same name, entered into an agreement to acquire a store under the Trusteeship of Interstate Department Stores which is now in a Chapter X reorganization pending in this court.

In that transaction the Trustees, through their counsel, brought on an application to confirm the sale of the property to Mr. Hancock. Mr. Hancock came to the court on the return day of that application at which time he expected that the Court would confirm the contract and that he would take a signed order confirming the contract of purchase back with him to Chicago so that the Chicago Title Insurance Company might promptly issue a title policy since it was the intention of Mr. Hancock and the Trustees to have a closing with respect to the property on or before June 1st, 1976.

The hearing in the court took place on May 17,

1976. There is testimony disputed between Mr. Hancock and representatives of the Trustee as to whether or not Mr. Hancock knew in advance that the sale that he was attending and as to which he expected confirmation would, in fact, be a public bidding sale or whether, in fact, merely is the application for his contract of purchase would be confirmed by the Court subject only to satisfying the Court that the purchase price for the property was a reasonable one, an adequate one, based on the appraisals that the Trustees had made.

When Mr. Hancock came to the Court, the Court opened up the transaction to bidding and there was one bidder present, Dominick's Finder Foods, represented by Golenbock and Barell, and they bid for the property more than Mr. Hancock had agreed to pay in his contract of purchase. Mr. Hancock, not expecting there to be a bidding transaction in the court, was dismayed at the fact that there was a public bidding and because he says, and it states on the record, that he was not aware and hadn't been informed by either the Trustees or their counsel prior to their hearing in court that the contract that he had entered into would be the basis or a floor, if you will, for subsequent public bidding in the transaction.

The notice that was sent out calling for the

hearing makes reference only to the fact that the hearing was to be an application for confirmation of the contract between Mr. Hancock and the Trustees and does not include the typical words, namely that at that hearing others may offer other or higher bids for the property which is the usual format where public bidding is in fact expected.

Counsel for the Trustee and some of the witnesses in this morning's brief trial before Judge Ryan indicated that while they had not told Mr. Hancock that there would be, in fact, public bidding, they had informed him there was at least one other party interested in the property. The transcript of the case, I believe, in the hearing that took place before Judge Ryan on the 17th of May, indicates not only that Mr. Hancock did not expect there to be public bidding, but nor did the Trustees, since during the course of the proceeding their application confirms Mr. Hancock's agreement of purchase was amended to permit the higher bid to be accepted. Some of the facts with respect to the conversation between Mr.Hancock and representatives of the Trustee prior to the May 17th hearing are in dispute.

After leaving the courthouse on May 17 in a dismayed state, if I may put it that way, Mr.Hancock returned to his home in Chicago. When he cooled down from what he thought was impropriety in the fashion in which he was

treated in the courthouse, not because of the Court but rather because he was misled and that he did not expect there to be truly a public sale, he reflected upon what had happened and called the courthouse that same day to indicate that he was willing, if there was to be public bidding, to bid more than the Dominick's Finer Foods Corporation had bid and he subsequently, that afternoon, cabled the Court informing them that he would bid as an opening bid $725,000 for the property which had been earlier that morning bid on and the high bid was $685,000 offered by Dominick's Finer Foods.

The notice of the hearing, as I said, did not indicate that there was to be public bidding at this transaction. In addition, we believe that there are other infirmities with respect to the notice and to the conduct --

THE COURT: Who does that appeal go to? Who hears that appeal?

MR. KRUGER: I believe this Court would hear the appeal.

THE COURT: That is your off-the-bench opinion but I am not too sure under the new rules.

MR. KRUGER: Under the new rules it still comes to this court, your Honor.

THE COURT: I don't think it provides specifically

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for it, but I don't think they envisioned a case where there was a reference like this and a hearing of the kind you are talking about.

But, in any event, there is an appeal through somebody, whether it's to me or upstairs.

MR. KRUGER: Following the May 17th date and the telegram to the Court, Judge Ryan did enter an order confirming the sale to Dominick's Finer Foods. He did that on May 24, 1976. A notice of appeal and a designation of the record has been filed by us on behalf of Mr.Hancock appealing from Judge Ryan's order essentially on the grounds that we have stated.

At the same time, we brought on a proceeding before Judge Ryan via an order to show cause which was returnable this morning asking the judge to set aside his original order of confirmation and rescheduling this matter for what we believe would be a properly noticed public sale which Mr. Hancock, with adequate notice, was prepared to come in and bid with an opening bid of not less than $725,000, $40,000 more than the prior bid.

We also asked in that applikation for a rehearing that Judge Ryan stay all proceedings by the Trustee and by Dominick's and their counsel pending the hearing before Judge Ryan this morning. Judge Ryan declined to do

that and struck from our papers that portion that related to any automatic stay. We then had our hearing before Judge Ryan this morning and testimony was put in by us on behalf of Mr. Hancock and to some extent in the form of cross-examination by Golenbock and Barell on behalf of Dominick's Finer Foods, and a position was stated as to both the facts and as to the law by counsel present here this afternoon.

B2 At the conclusion of that hearing, Judge Ryan reaffirmed his decision to permit the sale as he had confirmed it to stand and at that time we requested again that he issue a stay pending the outcome of the appeal which, as I said, has heretofore been filed with this Court. If not with your Honor, then surely with the District Court generally.

We believe two reasons why a stay should be issued. First, is the agreement of sale itself provides that no closing should take place unless and until a final order of the Court has been entered which is non-appealable. I would submit that Judge Ryan's order confirming the sale of May 24, 1976 is not such a final order because in point of fact an appeal has been taken. There has not been a closing under the contract of sale for the reason that counsel for the purchaser and counsel for the Trustee

graciously consented to extend their original closing date which was scheduled for this past Friday to not sooner than tomorrow for the reason that they did not wish to deprive Judge Ryan of an opportunity to reconsider this original decision.

They are not, I believe, willing, or at least I don't believe that Golenbock and Barell is willing, on behalf of Dominick's Finer Foods, to voluntarily extend the time for such a closing any further than tomorrow. The reason for the request, therefore, for a stay in this proceeding is so that this Court will not be deprived of its opportunity to review the record by there having been a closing which would make, perhaps, moot the question that is sought to be presented in this appeal. That is the reason that a stay is requested and we would request that a stay issue staying the closing of this transaction unless and until this Court has passed upon applicant's petition for review of Judge Ryan's order confirming the sale.

I think that is succintly the position of the applicant at this time, your Honor.

MR. GALOWITZ: Your Honor, I am Sam Galowitz and I am with the firm of Golenbock and Barell. We appear for Dominick's Finer Foods in our position in this application for a temporary retraining order. It's my understanding

that a temporary restraining order should not be granted unless the applicant has indicated and has shown to the Court a reasonable likelihood of success.

I think he has completely failed to do this in the District Court and in the statement that was made before this Court when all of the different facts were known. Secondly, your Honor, any temporary restraining order that is granted in this particular matter will be to the prejudice of my client since they have already arranged to do all those things necessary to consummate the sale. They have already allocated something like $490,000 cash for the purchase of this property. They have made arrangements with the holder of the existing mortgage. They have negotiated with the various other people who are involved in this property, particularly an outfit called Di-Gas which was another condition to the confirmation of the sale.

If they cannot proceed with the sale, they will be prejudiced by reason of having expended --

THE COURT: Suppose on appeal their position is sustained? What can they do about it then?

MR. GALOWITZ: Presumably, if I understand, and I have done reading on the matter, I think they may be able to rescind the sale transaction in which event the cash that we have paid on this transaction would be returned to us.

What is before this Court is whether there is really any likelihood of any kind of success, bearing in mind that this has been before Judge Ryan twice now.

I believe there have been three times when an application has been made to him for some type of restraining order to hold this in abeyance which has been denied as late as this morning at about 12:00 o'clock, after having heard all of the testimony.

If your Honor please, I would like to fill in some of the basic facts so that perhaps you can get a better feel of what the likelihood of success might be.

THE COURT: I am afraid I am going to have to read the record rather than try to remember leading remarks made during the course of this discussion. But you go ahead and say whatever you want to say.

MR. GALOWITZ: I think that is probably correct. The reading of the record and the reading of the various documents before the Court would probably give a clearer picture and a clearer understanding of what the possibility of the success is on this action.

Just one or two comments based upon Mr. Kruger's statement that I would like to perhaps clarify.

The notice that was given to bring on the hearing before Judge Ryan was for a hearing for the consideration

of an application for an order approving the agreement and this is exactly what took place at that time.

THE COURT: Do you think a person reading that in the Times would say, "Here is a chance to go down and bid on this", or would he say, "The Court has just approved an agreement that the Trustee has made with some group of buyers"?

MR. GALOWITZ: Apparently it's Mr. Hancock's understanding that Referee Ryan would act, in effect, as a rubber stamp.

THE COURT: That is true and that is what I am saying. Do you think a person reading the Times with that notice might say that to himself, this is just another thing that is a fait accompli, the judge is just putting his imprimatur on something agreed upon?

MR. GALOWITZ: Absent any advice to Mr. Hancock, he could at least come to the courtroom with the understanding that the judge will consider the adequacy of the consideration and that one of the items to be considered in the adequacy of the consideration, and perhaps the best one, is another purchaser prepared to buy the property on the identical terms for a higher price. To me that would indicate an inadequate consideration and probably to the Court it would, and Mr. Hancock should have been aware of it.

THE COURT: You might argue he was so sure it would have been a rubber stamp proposition that he was not aware to do anything else and for that reason, being non-plussed, as it was, he simply walked out without protecting his rights. If he had any idea at all that there was further bidding on it, if he had any sense at all and would have thought about it, he would have come in with another price and he was not prepared to do that at all. He simply turned around and walked out, apparently.

MR. GALOWITZ: If I may fill in some of the facts, six days prior to the hearing -- and I am reading from the affidavit, and this is the same testimony given earlier today by an impartial witness, that is the real estate businessman from Interstate Stores -- and, if anything, I presume we would want to see the highest price paid for the property. I spoke on the phone with Mr. Hancock and advised him that another party was interested in purchasing the property and that if a higher bid was offered he could lose the property. I suggested that his attorney appear in court if he wanted to bid or even authorize our attorney to bid on his behalf.

That is what he stated.

At the testimony this morning, if I remember correctly, Mr. Hancock's response to that was, "I really

don't remember if that conversation took place."

THE COURT: I am aware of that. I know some of the facts from having talked with my law clerk who has talked with you people. I am aware of that fact. I would like to see the record myself and read it. That is my problem.

Under the circumstances I am going to need a little time. It has to be to be typed up for one thing. I don't want to delay this thing inordinately, but I do need some time. If you can do it by agreement, well and good. If you can't, I will fix my own time.

B3 MR. KRUGER: We have no urgent desire to delay the proceeding. We would like to have a decision by this Court on our appeal as well as on the stay as promptly as possible.

THE COURT: I am prepared to get to it right away as far as my end of it is concerned.

MR. KRUGER: We asked the transcript be expedited this morning. I don't know when the court reporter will have it but we have asked him to produce it as promptly as possible.

THE COURT: We don't have any idea when I can get those minutes. We will try to find out.

As a matter of fact, we have no information

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on that and I will need a little time. I am not going to delay this to any great extent. I will get through with it as soon as I get the opportunity to read it.

MR. KRUGER: I would renew my request then for a stay pending a decision on the appeal, but at least a stay pending your Honor's having had an opportunity to review the record.

THE COURT: I would only extend it to the point where I have had an opportunity to read it myself.

MR. YASSKY: May it please the Court, I am a member of the firm of Shea, Gould and Climenko, and we represent the Trustee in this proceeding.

As to the merits, which I will address myself very briefly to, we believe that both the original order of Judge Ryan confirming the sale of Dominick's and the decision that he made this morning on the motion to vacate his prior decision was very much a matter of discretion of the bankruptcy judge and we don't believe there was an abuse of discretion in any way in ordering as he did the first time or the decision this morning. But as to the matter before you now, that is the application for a stay, we do believe that if there is a stay granted it should only be on condition that the moving party agree to indemnify the estate against any loss of any costs that might be incurred

by any delay to the closing of this matter.

THE COURT: I am sure they are prepared to put a bond up for that purpose.

MR. KRUGER: Yes, we are.

THE COURT: There is no argument there. There is no need to get into that.

MR. FELLER: Your Honor, I am Jerome Feller and I represent the Securites and Exchange Commission in this matter.

We too support the request for a stay pending the review by this Court or this Court generally.

THE COURT: Why do you say the District Court generally? Would the appeal in any way go to the Court of Appeals?

MR. FELLER: No, there is an intermediary level at this juncture.

THE COURT: If it went to the Part 1 judge he would assign it to me because it's my matter, wouldn't he?

MR. FELLER: It's really unclear. Your Honor will recall this Court had entered an order shortly after the enactment of the new bankruptcy rules whereby your Honor referred generally to the case of Judge Ryan. Whether that means that this Court has, in effect, washed its hands of this case or not is really unclear.

THE COURT: That would not be my feeling on the matter. I simply made a reference to them, that is all I did. He is acting for me and actually that is all he is doing as far as I am concerned.

MR. FELLER: If that was the intention of the order, I do not believe that it was the intention of the bankruptcy rules which did vest with the discretion of the District Court the wider powers of the bankruptcy judge that a Court, other than your Honor, would be deciding in this appeal.

But be that as it may, I think that what had occurred this morning and in prior hearings in this matter, it's not as difficult as it may seem. I think it does present a rather not too difficult question of law even thought some of the facts may be in dispute. What had occurred over here, your Honor, was that at a hearing before Judge Ryan bidding was had on a particular piece of property and Judge Ryan had indicated that the property would be sold to the then highest bidder at the conclusion of that hearing. Apparently there was some confusion at that hearing.

THE COURT: How do you read that notice? Do you think that notice was sufficient? What bugs me about the notice is how can you restrict a notice like that? How can you make a rubber stamp out of the Court? It doesn't

seem to me, under bankruptcy, you can say you are going to have such a deal and all you have to do is listen to the Court say, "Yea, that is fine."

MR. FELLER: I agree. I don't think the fact that it's not contained in the form of notice, the magical phrase "or any other higher bidder", that Hancock or anyone else could come in to court assuming that he would have gotten the property in the event that a higher bidder were to come in. That, in fact, is what had occurred. A higher bidder did appear, but in view of the fact that the very, very same date, the very same date of that hearing, after the hearing, apparently when the dust settled, Hancock had advised the Court and the Trustees that he was prepared to bid in some $40,000 more as a minimum upset price.

The entry of the order confirming the sale subsequent to that advice does raise questions with regard to the equities of the overall estate over here. It's difficult to understand.

THE COURT: It's been figured to be $40 a share or $40 a claim, hasn't it?

MR. FELLER: Be that as it may, I don't know --

THE COURT: Sub silentio you are agreeing, is that it?

MR. FELLER: Not necessarily, your Honor.

THE COURT: But, you see, my problem is that I have two counterveiling feelings here. I would like to see a lot more money come into the estate and, on the other hand, I think there must be finality to something. We can't make this like habeas corpus petitions which go from judge to judge and court to court and from agency to agency, and it never ends.

MR. FELLER: Absolutely. It was indicated this morning that certainly these procedures of judicial sales must have something of finality. But there are cases on this question, your Honor, and I think it's quite clear that the finality that the Court is concerned with, that Judge Ryan was concerned with, and this Court is concerned with, is only reached upon entry of an order, a written order confirming the sale.

The highest bidder and the auction, so to speak, is merely viewed as a proposal, as a proposal to recommend, so to speak, which doesn't become finalized until the entry of the order.

I do not mean to suggest that the bidding is meaningless. The bidding, as far as progression towards finality, is of some importance. But the situation in the courtroom on that day, at least the stayed confusion, the apparent confusion that transpired, the fact that a bidder

was out-bid by some $10,000 and subsequently at the very, very same date had indicated to the Court and to the Trustees that he was prepared to go higher, that the entry of an order confirming the sale to the lower bidder was a proper exercise of discretion on the part of the Court.

In light of that, I do think that minimally, at this juncture, a stay of the consummation of that transaction should issue pending the opportunity of your Honor to review the matter in its totality.

THE COURT: That is exactly what I intend to do subject to the condition of the bond being furnished.

B4 MR. KRUGER: With respect to a bond, your Honor, I don't know what the Court has in mind but Mr. Hancock, who is present in court this afternoon, stated on the record this morning before Judge Ryan, and I would affirm to your Honor, that he is prepared at any public sale of this property to open bidding at $725,000, so it would appear to me that surely the estate, the Chapter X proceeding, would not be disadvantaged by any stay or by any vacating of the sale held before Judge Ryan for the reason that, at the very least, there will be enhancement of $40,000 to the estate and I also can tell the Court that with respect to that we would not anticipate that bidding would end at the $725,000 mark because we are prepared to bid substantially

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higher than that, should that be occasioned by other bids in that proceeding.

THE COURT: What is the consideration for that statement? Is it enforceable?

MR. KRUGER: I would be perfectly happy to enter into a settlement for the $725,000 now or, alternatively, if the Court is concerned, and I suppose the difference we are talking about is that $40,000, we would be happy to post a bond for that amount or whatever other amount the Court thinks proper.

I would like to say, on the record, there is a good deal more confusion with respect to the events leading up to the transaction before Judge Ryan on May 17th in that the testimony from counsel, as well as from Mr. Hancock, as well as Judge Ryan having amended the proceeding during the course of the proceeding, indicates to me that the notice itself, which I believe was defective by failing to state that there would be an opportunity for other and higher bids, confused not only the Trustee and his counsel, as well as Mr. Hancock, but I think perhaps the Court as well.

I think that creditors who received that notice would not know that public bidding was to take place. There was not advertising of the sale in the usual fashion. There

was no notice in any public newspaper and, in addition, I think it was an obligation perhaps on the part of its Trustee or counsel ab initio to inform Mr. Hancock that the agreement he was entering into would merely be the basis for public bidding in the courthouse for the reason that I assume that a bidder for property, or a prospective purchaser of property under those circumstances might think twice about whether or not he wants to make his highest possible bid or pay his highest price under those circumstances.

There have been several recent cases in the second floor in bankruptcy courts where bids for real property as well as personalty have come in in similar types of contracts substantially less than the amounts realized at the conclusion of a properly noticed public sale for the very reason that somebody wants to get the ball rolling for a public transaction but does not want to put forward his very best foot.

Mr. Hancock, in this case, didn't think that was what was happening at all. He thought he was putting forth his best foot and that he had a transaction that was going to stand and if it was not going to stand because the Court found inadequacy of consideration, that either he would have an opportunity at some subsequent date to address

himself to that subject or, if the Court felt that there should be public bidding, that he would have an opportunity to reflect about that and determine how far he was able to go economically with respect to this property.

THE COURT: What do you suggest as the amount of the bond?

MR. YASSKY: On the question of the bond, I don't think that it's necessary --

THE COURT: How much in dollars?

MR. YASSKY: We would like an indemnity that if the estate suffers any damages at all we have a firm contract at 685. If the property is sold in a reasonable time for 725 or more the estate will not be damaged. There are $6000 a month carrying costs and an outside date where both parties can walk away on the contract. Theoretically the estate could be damaged. If it's indeed sold in a reasonable time at that price there will not be any damages.

I think we can leave it open on any damages the estate sufferes.

MR. GALOWITZ: One comment in this area. One of the difficulties with having a telegram come in on the night after the hearing took place is that it does not give the Court the opportunity to do into the financial capacities of the parties. My client had at the hearing offered

testimony as to its financial capacity to consummate the transaction because of the manner of Mr. Hancock first making his one bid and then declining to make any further bids, and there was no opportunity at that time for the Court to have any testimony or to have any information whatsoever about the capacity of Mr. Hancock to consummate the transaction, bearing in mind that there is approximately a $200,000 mortgage affecting the property.

Accordingly, the price suggested that would be about $525,000 cash necessary to consummate the transaction on behalf of the buyer.

THE COURT: Are you prepared at this time to present any evidence of that kind?

MR. KRUGER: In the actual transcript, and I am looking through it now, I believe counsel for the Trustee, when asked the question of whether or not the financial conditions of Mr. Hancock and Dominick's were able to support the transaction that they had entered into, found both were adequately able to finance the purchase price that they had agreed to.

THE COURT: Maybe you can answer that question better.

MR. KRUGER: I assume the Trustee would not have sold at $650,000 without that.

MR. YASSKY: It is basically a cash deal and the position of the Trustees is that either party's cash is of equal value. I don't think the financial stability of the buyer here is particularly germane. There is a deposit which would be forfeited in the event that they don't close.

THE COURT: Does anyone want to say anything else before we suspend at this time?

I will issue a stay and I don't think I can do it. I will try to do it earlier, but I will issue a stay for one week from today upon condition that the bond be furnished in the fashion indicated by the Trustee.

MR. KRUGER: Is that an open indemnity bond? I don't know if one can obtain --

THE COURT: If you can't, I will fix an amount. Find out from the bonding company what they will do, and if they can't do that I will fix an amount. First find out if they can do it. I am here from 8:00 o'clock, 8:15 in the morning until 5:00. You can come in any time.

MR. KRUGER: I will try to accomplish that this afternoon and let the Court know as quickly as possible, as well as counsel for the Trustees and for Dominick's.

Will your Honor's decision at that time be a decision on the stay or on the appeal or just the stay

requested?

THE COURT: I will read the record and I will make up my mind at that time. Right now I would rather not take part in it myself. If anything would happen I would refer it back to Judge Ryan and I want to look at the order that the SEC called to my attention. It was not my impression that that is what I did because what he says, in fact, is I completely gave up the case. That is not the fact. I didn't do that.

MR. KRUGER: That is not what you did.

MR. FELLER: I didn't say that, your Honor.

B5 THE COURT: How do I hold on to it and not hold on to it? I either am still in charge of the case and matters of appeal come to me or I am not.

MR. FELLER: I recall the existence of that order. I hae not read it now for pr ably a year. What exactly that order says with regard to this Court's continuing retention I can't say at this juncture.

THE COURT: All right. I can't answer you at this point. I will read the record and make up my mind which way I am going to head from that point on.

* * * *

Letter to Judge Cannella from L. Yassky, Esq.
Dated 7/6/76

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July 6, 1976

Honorable John M. Cannella
United States District Judge
United States Courthouse
Foley Square
New York, N.Y. 10007

Re: Interstate Stores, Inc. -
Sale of Chicago Heights Property

Dear Judge Cannella:

We have been advised by Mr. Danilow today that your Honor will be consolidating the application of a stay in this matter with the appeal of Judge Ryan's decision, and will be deciding the appeal on all the papers submitted by this Thursday. Since it is likely that the arguments to be made on appeal by Messrs. Krause, Hirsch & Gross, attorneys for John E. Hancock ("Hancock") and Messrs. Rogers, Hoge & Hills, attorneys for AMF Inc. (collectively, the "Appellants") are substantially set forth in their respective memorandum and brief heretofore submitted, we wish to express the Trustees' position with respect to one of the major issues raised by the Appellants, to wit, the issue of the adequacy of the notice. The issue of the adequacy of the notice is two-fold: (1) was the notice in compliance with Bankruptcy Rule 10-209; and (2) was Hancock afforded inadequate notice?

Rule 10-209 provides that unless for cause shown the Court orders a sale without notice, at least 20 days notice of a proposed sale of property shall be given to all creditors,

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stockholders and indenture trustees. We submit that the spirit of this subdivision of the Rule, together with subdivisions (f) and (g) of the Rule, authorizes the Bankruptcy Judge to order such notice as is appropriate in the circumstances. Due to the familiarity of Judge Ryan with all aspects of this proceeding, not every application brought by the Trustees sets forth all the reasons why notice to all such parties is deemed unnecessary. The reasons are basically these: Between 8,000-9,000 creditors have filed proofs of claim. Other persons are listed as creditors in the debtors' books and have not filed claims. There are over 7,700 stockholders. There are an indeterminate number of holders of coupon debentures. It is very costly (and time-consuming) to send notices to all such persons. Parenthetically, the two instances when such notice was sent, on the hearing on the Trustees' qualifications and the matter of allowances, only one or two persons appeared other than those who regularly attend Interstate hearings. Instead, on substantially all matters which are the subject of a hearing in the Bankruptcy Court, the Trustees have requested, and the Bankruptcy Court has so ordered, that notice be given to the Securities and Exchange Commission and to all persons who have filed statements under Section 210 or 211 of the Bankruptcy Act. These persons include counsel for the Unofficial Creditors Committee, the counsel for the large institutional lenders and holders of funded debt, and counsel for the Indenture Trustees. We submit that this is a representative group which adequately represents the creditors' and shareholders' interests.

Notwithstanding some of the arguments raised in the aforementioned Appellants' memorandum and brief, we submit that the number of persons who received the notice is not a bona fide issue, and the suggestion made in such memorandum and brief that notice be given to all creditors over $100,000 is arbitrary, would serve no useful purpose, and may establish a precedent which would further burden the administration of the estate. Indeed, at the June 28 hearing, Hancock's counsel stated with respect to this issue: "I am not here to suggest that Mr. Hancock's complaint is with the number of creditors who received or did not receive this notice." (Tr. p.39)

The second aspect of the notice issue is whether it was inadequate because it did not state that "higher offers would be accepted" or "bids accepted" or similar language, and that Hancock was misled by such failure. Judge Ryan apparently has found that Hancock was not misled and that

SHEA GOULD CLIMENKO & CASEY

he was notified 6-7 days prior to the hearing that another party would be present and would bid on the property. There is adequate testimony and affidavits submitted to support such finding. For this reason I do not believe it is necessary to determine whether the notice should have contained so-called 'bidding language'. However, as an explanation of the contents of the notice, I think it can fairly be said that the notice was not prepared for the purpose of soliciting bids. The Trustees sought to sell this property for two years. It was listed with Chicago real estate brokers. The contract executed with Hancock was a negotiated contract. Certain terms had to be compromised in favor of other terms. We submit that an auction sale is not always the best means to secure the best deal for the estate. The Trustees anticipated that the Court would approve the sale unless a higher bid was made on the same or better terms. No other bidder appeared on the scene until a week before the hearing and Hancock was notified when one did.

The above is intended for your Honor's benefit solely on the notice issue. Whether, in view of the facts and circumstances of this matter, your Honor believes that Mr. Hancock deserves a second bite at the apple is, of course, for your Honor's discretion.

Respectfully submitted,
SHEA GOULD CLIMENKO & CASEY

By _____
Lester Yassky

LY:bac

cc: Lewis Kruger, Esq.
Sam Galowitz, Esq.
Jerome Feller, Esq.
James Blair, Esq.

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Letter to Judge Cannella from L. Kruger, Esq.
Dated 7/7/76

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July 7, 1976

Honorable John M. Cannella
United States District Judge
United States Courthouse
Foley Square
New York, N. Y. 10007

Re: Interstate Stores, Inc.
Sale of Chicago Heights Property

Honorable Sir:

In response to the letter submitted by Shea Gould Climenko & Casey, counsel for the Trustees of Interstate Stores, Inc., in reorganization, we, the attorneys for John E. Hancock (herein "Hancock"), respectfully submit that the notice of hearing to confirm the sale was inadequate in that Hancock was misled by failure of the notice to state that "nigher or better bids would be accepted", or "bids accepted", or that "an auction sale" or a "proposed sale", or "public sale" was to be held, or comparable language.

The course of conduct which the Trustees and their agents, employees and representatives followed was completely in accord with the belief of Hancock, confused by the notice of hearing, that a hearing only to confirm the sale would be held.

The transcripts of the hearing "to confirm a sale" as well as the hearings to set aside the confirmation of the sale before Judge Ryan clearly indicate that Hancock's position was shared by Mr. Rotkin, Mr. Finkle and Mr. Galowitz, of Golenboch & Barell, attorneys for Dominick's Finer Foods, Inc. Their confusion as to the nature of the hearing is amply demonstrated throughout the testimony received by the court.

In his letter of July 6, 1976 to this court, Lester Yassky states:

> "I think it can fairly be said that the notice was not prepared for the purpose of soliciting bids. The Trustees sought to sell this property for two years. It was listed with Chicago real estate brokers. The contract executed with Hancock is a negotiated contract. Certain terms had to be compromised in favor of other terms. We submit

that an auction sale is not always the best means to secure the best deal for the estate".

With this statement in mind it is clear that Hancock entered into what he and the Trustees believed to be a private contract to purchase the property subject only to the pro forma approval of the court and that since the contract price as negotiated was equivalent to the appraisal value, the hearing to confirm a sale was just that -- a hearing to confirm a sale which was already entered into and which could not be upset barring a finding of substantial inadequacy of consideration or a clear finding by the court that the terms of the contract were in other respects unacceptable. The court never made such findings and in fact clearly recognized that Hancock's contract to purchase the property for $650,000 was a good faith contract, enforceable by the Trustees.

Mr. Yassky's statement quoted herein and Hancock's actions prior to and at the hearing amply demonstrate that both the Trustees and Hancock attended the hearing in the belief that public bids were not to be accepted or an auction conducted. Nonetheless, bidding was conducted in an auction framework with the court soliciting other bids.

It is for this very reason that applicant believes that the order of the court confirming the sale which was conducted in the face of the Trustees' and applicant's understanding that a very different court hearing was to take place should be set aside and a new hearing scheduled for the disposition of the property.

Respectfully submitted,

KRAUSE, HIRSCH & GROSS

By: Lewis Kruger
Lewis Kruger

mn
cc: Lester Yassky, Esq.
Sam Galowitz, Esq.
Jerome Feller, Esq.
James Blair, Esq.

Letter to Judge Cannella from F. Gordon, Esq.
Dated 7/8/76

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July 8, 1976

Honorable John M. Cannella
United States District Judge
United States Court House
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New York, N. Y. 10007

Re: In the Matter of Interstate Stores, Inc.
74 B 614-802

Dear Judge Cannella:

This firm represents AMF Incorporated, a creditor in the above-named Chapter X Reorganization and an appellant from the order of Bankruptcy Judge Edward Ryan dated May 24, 1976, which confirmed the sale of certain property of the above-named debtor in Chicago Heights, Illinois.

We have been advised by Mr. Danilow that the Court is consolidating the appeal from the confirmation of the sale (taken by both AMF and John Hancock) with the appeal from the denial of a motion to set aside the sale (taken only by Hancock) and expediting both. We have also been advised that we might submit additional arguments by today.

This firm submitted its Brief in Support of Motion to Set Aside Order of Sale to Judge Ryan in connection with the motion which was heard June 28, 1976. Mr. Danilow has informed us that that brief has been submitted to the Court and will be read in connection with the appeals now pending before the Court. It includes most of the material which we had planned on including in a brief in support of the appeal taken by AMF. Under the circumstances, our additional submission on the appeal will be limited to the additional remarks in this letter.

ROGERS HOGE & HILLS

The Court has been deluged by this time with a multitude of papers on the subject matter of the two appeals now before it. The great mass of that paper, including the brief of AMF, is addressed to the motion to set aside the sale. It is our purpose herein to point out to the Court that, while the subject matter may be the same, the appeals from the order of confirmation require a different standard of scrutiny from the appeal from the order refusing to set aside the sale.

Of course, all the factors which compel setting aside the sale will also mandate that confirmation be denied. But the converse is not so, and confirmation will be denied in circumstances where the Court may be reluctant to set aside a sale.

As the Second Circuit has observed:

> "The standard for setting aside a sale is stricter than that applied in a direct attack upon a confirmation. In the latter, the governing principle is to obtain the best price for the bankruptcy estate whereas in the former there is greater emphasis upon finality in judicial sales and executed contracts, unless they are 'tinged with fraud, error or similar defects which would in equity affect the validity of any private transaction.' 4A Collier, Bankruptcy, ¶70.98 [16], 1183, 1184-94 (14th ed. 1967); In re Burr Mfg. & Supply Co., 217 F.16, 19 (2 Cir. 1914)." In re General Insecticide Co., 403 F.2d 629, 630-631, (2d Cir. 1968)

In that decision, the Court clearly indicated that defective notice, while possibly insufficient to require that a sale be set aside, would be cause for denying confirmation. While we believe the points made in our Brief in Support of the Motion to Set Aside the Order of Sale are well taken, we readily concede that the arguments contained therein are far more persuasive and compelling when the Court is addressing the confirmation of a sale rather than setting it aside.

Be reversing the confirmation here, this Court will advance the "governing principle . . . to obtain the best price for the bankruptcy estate" with minimal prejudice to the confirmed buyer, Dominick's Finest Foods, Inc., and without eroding the

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"greater emphasis upon finality in judicial sales and executed contracts" which must be observed in the case of setting aside a sale.

As to the various apologies and rationalia advanced by the attorneys for the Trustees and Dominick's for the abbreviated notice that was in fact given, we cite the 8th Circuit in In re Insulation & Acoustical Specialties Company when it approved the language of the District Judge below that the:

> "Custom and practice . . . of not giving notice cannot prevail over the requirements of statutory notice."
> In re Insulation & Acoustical Specialties Company, 426 F.2d 1189, 1190 (8th Cir. 1970).

For the reasons stated herein, and in the Brief in Support of Motion to Set Aside Order of Sale submitted by AMF Incorporated, this Court should reverse the order of the Bankruptcy Judge granting confirmation of the sale, and direct that a new sale proceed upon proper notice.

Respectfully yours,

Frank H. Gordon

Frank H. Gordon

Copies to:

Golenbock & Barell, Esqs.
645 Fifth Avenue
New York, N. Y. 10022

Krause, Hirsch & Gross, Esqs.
41 East 42nd Street
New York, N. Y. 10017

Shea Gould Climenko Kramer
& Casey
330 Madison Avenue
New York, N. Y. 10017

Securities and Exchange Commission
26 Federal Plaza
New York, N. Y. 10007

5E 530

Letter from L. Kruger, Esq. to Judge Cannella
Dated 8/13/76

August 13, 1976

Honorable John M. Cannella
United States District Court
Southern District of New York
Foley Square
New York, N. Y.

Re: Interstate Stores

Honorable Sir:

This firm is counsel for John F. Hancock, the appellant from a decision of Bankruptcy Judge Edward J. Ryan, confirming a sale of certain property in Chicago to Dominick's Finer Foods, Inc.

On July 19, 1976, Your Honor entered an order vacating the order of Bankruptcy Judge Edward J. Ryan and remanded the matter back to the bankruptcy judge for further proceedings in conformity with Your Honor's opinion.

Since the entry of Your Honor's Order, this firm has been in touch with counsel for the Trustee and requested that counsel for the Trustee proceed promptly to arrange for a sale of the subject premises upon the proper notice, as more clearly set forth in Your Honor's Order. Counsel for the Trustee has heretofore prepared a new agreement between the Trustees and John F. Hancock calling for the sale of the subject premises to Mr. Hancock at a price of $725,000. The said agreement has heretofore been delivered to Mr. Hancock and the undersigned believes that the said signed agreement is already on its way from Mr. Hancock back to the undersigned, together with the appropriate down payment.

I was informed by Colenbach & Barell at 12:30 P.M. that they were requesting that Your Honor issue a Temporary Restraining Order restraining the Trustee and Mr. Hancock from entering into any agreement or from taking any steps with respect to the property in question.

As I write this letter at 2:30 P.M. this afternoon, I have not yet seen any documentation with respect to such request for a Temporary Restraining Order from the firm of Colenbach & Barell although I dispatched a messenger to their office some time an hour ago in an attempt to obtain the papers. Our messenger

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Two
Hon. John M. Cannella
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informed our office that the papers were not yet ready. Further, I have learned from Your Honor's law secretary that he was informed by Rosenbock & Farell that a notice of appeal was heretofore filed in these proceedings but to this date our firm has received no copy of the notice of appeal nor to the best of our knowledge has any other party been aware that a notice of appeal had been filed.

In submitting the appeal from Judge Ryan's Order to Your Honor, the undersigned made it clear to both counsel for the Trustee and to the Court that the appellant, John L. Hancock, was willing to purchase the subject property at a sum of not less than $725,000. It was also noted that Mr. Hancock intended that this property, which is a retail store, be opened and available for use in time for this year's Christmas season. To grant a Temporary Restraining Order at this juncture and with the result of a further delay in these proceedings, will mean that Mr. Hancock will surely lose the benefit of the Christmas season in 1978 and the property will therefore be of a diminished value for the stated use he intends.

It is the intention of the Trustees to submit the signed agreement with Mr. Hancock to the Court so that the Court may schedule based on Your Honor's decision, a properly noticed hearing with respect to said agreement. At that time one assumes that Dominick's as well as others may come forward and bid against Mr. Hancock for the subject property. To grant a Temporary Restraining Order precluding the Trustees and Mr. Hancock from going forward at this time would be to work an irreparable damage to Mr. Hancock as well as to the estate of the bankrupt, which continues to incur costs and expenses with respect to the subject property.

Further, without the benefit of having seen any Order to Show Cause requesting the Temporary Restraining Order, or any supporting affidavits or briefs, I must assume that Dominick's Finer Foods, by their counsel, have not elicited or stated in their request for a Temporary Restraining Order any new facts or legal precedents which would give us some reasonable basis for believing that the appeal, if any was in fact filed, from Your Honor's decision, has merit and absent such a showing we would respectfully suggest that no Temporary Restraining Order be issued and that the matter proceed as directed in Your Honor's Order.

Respectfully submitted,

KRAUSE, HIRSCH & GROSS

By: Lewis Kruger

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Application of Trustees Dated 8/13/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

In re	:	REORGANIZATION
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	Nos. 74 B 614-802, Inclusive
Debtors.	:	APPLICATION

- x

TO: THE HONORABLE EDWARD J. RYAN
BANKRUPTCY JUDGE

The application of JOSEPH R. CROWLEY and HERBERT B. SIEGEL respectfully shows and alleges:

1. On May 22, 1974 the captioned debtors filed petitions under Chapter XI §322 of the Bankruptcy Act and, thereafter, an amended petition for reorganization pursuant to the provisions of Chapter X of the Bankruptcy Act was filed on June 13, 1974. Said amended petition was thereafter approved by order of this Court dated June 13, 1974. Pursuant to said order, your Applicants were appointed, have qualified and are now acting as the Trustees of the captioned debtors.

2. Applicants again apply to this Court for authority, as Trustees of the debtor, Illinois Topps Realty Corp. ("Realty"), to sell 6.71 acres of land, the improvements thereon, and certain personal property locate at 160 West Joe Orr Road, Chicago Heights, Illinois (the "Property").

3. This Court is fully familiar with the Applicants' efforts to sell the Property and the decision of Judge Cannella, dated July 19, 1976, vacating the order of this Court dated May 24, 1976, which authorized the sale of the Property to Dominick's

Finer Foods, Inc. ("Dominick's"). The decision remanded this matter to your Honor for further proceedings. Yesterday, Applican were served with a copy of Dominick's Notice of Appeal of Judge Cannella's decision. However, Applicants believe that it is in the best interests of the estate to proceed expeditiously to sell the Property.

4. The contract of sale, dated May 17, 1976, between Applicants and Dominick's which was approved at the May 17 hearing before your Honor, was conditioned on this Court's approval of the sale, and that a closing be had before August 1, 1976. Since the order approving the sale to Dominick's was vacated and due to the passage of time, Applicants are advised that there is no contractual obligation to Dominick's. Since, as your Honor is well aware Mr. John E. Hancock, the first bidder on the Property, has offered $725,000 for the Property, Applicants have indicated their intent to accept his offer and enter into a contract (the "Contract") substantially in the form annexed hereto as Exhibit A, subject, of course, to this Court's approval and to any higher or better offer which this Court would accept.

5. The purchase price for the Property is $725,000 payable $54,850 on the execution of the Contract, $493,659.20 at closing in cash, and $176,490.80 by taking subject to the existing first mortgage, provided that the cash payable at the closing shall be increased by the amount of reductions in the principal amount of such mortgage.

6. The obligations of Applicants to transfer and of Mr. Hancock to buy the Property are conditioned, among other things, upon the agreement of Digas Company of Delaware, a licensee of part of the Property, to waive certain of its possible rights under its license agreement dated July 17, 1973. Except for encumbrances specified in the Contract, the Property is to be

sold free and clear of all liens and security interest encumbering the Property, which shall be transferred to the sale proceeds. A lease of the Property dated May 21, 1961 between the predecessor in interest of Realty and the predecessor of the debtor Topps of Chicago Heights, Inc. is not a permitted encumbrance. Since the continued existence of said lease would prevent the consummation of the Contract, it is onerous and burdensome and Applicants as Trustees of Realty, seek authority to reject same.

7. Applicants deem the sale of the Property at this time to be in the best interests of the estates because Applicants will receive approximately $550,000 cash and will be relieved of the expenses of carrying the Property. The purchase price is in excess of the appraised value.

8. Applicants respectfully suggest that notice substantially in the form annexed hereto as Exhibit B be sent to those persons so ordered by this Court. The notice provides that alternative offers will be considered, and that any higher or better offers may be accepted by this Court. This is to cure the defects in the contents of the prior notice in conformity with Judge Cannella's decision.

9. With respect to those persons to whom notice should be sent, Applicants are cognizant of the suggestions of Judge Cannella and the requirements of Rule 10-209(b)(4). Applicants respectfully suggest that Judge Cannella's decision only required that cause be shown as to why notice need not be sent to all creditors, stockholders and indenture trustees, and respectfully suggest that there is sufficient cause for such a finding. The reasons are as follows:

(a) The purchase price represents about 1/2 of 1% of the debtors' consolidated assets.

(b) The purchase price exceeds the appraised value.

(c) There are about 7,800 stockholders of Interstate Stores, Inc. Applicants are not aware of any stockholder that owns more than 5% of the stock. Any particular stockholder would have little interest in the terms of this sale. Moreover, the interest of stockholders in general should be adequately protected by the SEC.

(d) There are over 9,000 creditors, most of whom have filed relatively small claims. Again, any particular creditor would have little interest in the terms of this sale. Here too the Trustees submit that adequate creditor representation is accomplished by sending notice to all persons who have filed statements under Section 210 or 211 of the Bankruptcy Act which, in this case, includes co-counsel for the Unofficial Creditors' Committee, counsel for the institutional lenders, counsel for the indenture trustees and other representatives of substantial creditors. A list including such persons and other interested parties is annexed as Exhibit C.

(e) No matter how economically Applicants proceed, it will cost several thousand dollars to send notice to all creditors and stockholders. Moreover, if a precedent is established for similar sales of property in the future, the additional burden could be substantial.

(f) Applicants will supplement the notice to the representative group of creditors, if the

Court so orders, by publishing the notice in a major Chicago newspaper.

10. Except as noted above, no previous application for the relief herein requested has been made.

WHEREFORE, Applicants respectfully pray that an order be entered:

(a) Authorizing the Trustees to sell the Property to John E. Hancock on substantially the terms and conditions set forth in the Contract or, in the alternative, to sell the Property to any person, firm or corporation who or which may make a higher or better offer than the terms and conditions set forth in the Contract, prior to or at the hearing to authorize such sale subject, however, to such terms and conditions of sale as may be announced at said hearing and approved by this Court;

(b) Transferring all liens and security interests against any of the Property (except those liens and security interests specified in the Contract as permitted encumbrances) to the proceeds derived by Applicants from the sale of the Property;

(c) Authorizing the rejection of the lease dated May 1, 1961 by Applicants as Trustees of Realty;

(d) Granting such other further relief as may be just and proper.

Dated: New York, New York
August 13, 1976

JOSEPH R. CROWLEY and HERBERT B. SIEGEL
Reorganization Trustees

By Joseph R Crowley
Joseph R. Crowley

SHEA GOULD CLIMENKO & CASEY
Attorneys for the Trustees
330 Madison Avenue
New York, N.Y. 10017

By
A Member of the Firm

EXHIBIT A

AGREEMENT made this day of August, 1976 by and between JOSEPH R. CROWLEY and HERBERT B. SIEGEL, as Trustees of Illinois Topps Realty Corp, a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York under File Nos. 74B614-802, inclusive, and not individually ("Seller") and John E. Hancock ("Buyer").

W I T N E S S E T H :

1. Sale, Definitions

1.1 Seller agrees to sell, assign, convey and transfer to Buyer and Buyer agrees to purchase from Seller the real property described in Schedule 1.2(b) for the price and on the terms hereafter stated.

1.2 For purposes of this contract, unless the context shall otherwise indicate, the terms set forth below shall be defined as follows:

(a) The words "District Court" shall mean the United States District Court of the Southern District of New York, sitting as a Bankruptcy Court.

(b) The words "Premises" shall mean the Land described in Schedule 1.2b attached hereto, and the Improvements located thereon.

(c) The word "Closing" shall mean the consummation of the transactions referred to in this contract which shall occur on a day designated by Seller or its counsel, Shea Gould Climenko & Casey, in a notice to Buyer given concurrently with delivery of a copy of the Final Order which date shall not be earlier than the 3rd day (unless an earlier date shall be agreed to in writing by the parties) nor later than the 15th day (unless a later date shall be agreed to in writing by the parties) following the date of entry of such order (or if such 15th day is a Saturday, Sunday or holiday, the following business day) at 10:00 A.M. at the office of Chicago Title and Trust Company, 111 West Washington Street, Chicago, Illinois.

(d) The word "Buyer" shall include an assignee as provided in 12.

(e) The words "Final Order" shall mean an Order issued by the District Court having jurisdiction over the proceedings for the reorganization of the Seller (nos. 74B614-802, inclusive) after notice by the means and to the parties designated by the District Court and a public hearing before the District Court and with respect to which no appeal is pending and which grants to Seller the

legal authority to enter into and to observe, fulfill and perform all of the terms and conditions of this contract.

(f) The word "Improvements" shall mean the buildings, structures and other facilities on the Premises, together with all right, title and interest of the Seller in the fixtures installed and used in connection with the operation of the building and structures on the Premises and the personal property described in Schedule 1.2f.

(g) The word "Seller" shall include Messrs. Crowley and Siegel as Trustees of the corporations in proceedings for reorganization of Corporations bearing File Numbers 74B614-802 in the District Court, as well as where the context so requires, those corporations.

(h) The words "Marketable Title" shall mean good and marketable title to the Premises free and clear of all liens, encumbrances, agreements, restructions and burdens, except for Permitted Encumbrances.

(i) The words "Digas License Agreement" shall mean the license agreement dated July 17, 1973 between Topps of Chicago Heights, Inc., as Licensor and Digas Company of Delaware, as Licensee.

(j) Omitted

(k) The word "Mortgage" shall mean the mortgage dated November 1, 1961 from Bonobest Development Corporation to the Massachusetts Mutual Life Insurance Company and recorded as document 18363477 in the Office of the Recorder, Cook County, Illinois and on which there is $176,490.80 outstanding on August 1, 1976, together with accrued interest.

(l) The term "Collateral Security Documents" shall mean assignments of rent, security agreements, financing statements or other documents granting additional security or powers to the holder of the Mortgage.

(m) The term "Permitted Encumbrances" shall mean the matters, exceptions and state of facts affecting title to the Premises, as listed below:

(1) All liens for fiscal 1975 or the current or future fiscal periods for unpaid real estate and personal property taxes, vault charges, assessments, water and sewer charges and rents, subject to adjustment under 8.4 and 8.5.

(2) All violations of law or governmental ordinances, orders or requirements, noted or issued by any govern-

mental office, department or authority having jurisdiction ("governmental authorities"), but which as of the date hereof were not noted or issued by any governmental authority.

(3) All present and future zoning and building laws, ordinances, codes, restrictions and regulations of all governmental authorities and zoning variances and special exceptions, if any, and all present or future violations thereof.

(4) Any state of facts (including but not limited to changes in the line or the alignment of any street) a current survey of the Premises, or a physical inspection thereof, would disclose, including, without limitation, all encroachments and projections of the Improvements upon or over streets or adjacent premises and all encroachments and projections on or over the Premises.

(5) Consents by any present or former owner of any of the Assets or any part thereof for the erection or maintenance of any structure or structures on, under or over any abutting street or streets.

(6) All rights, easements and agreements, whether or not of record, for the erection and/or maintenance of water, gas, electric, telephone, sewer or other utility pipe lines, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the Premises.

(7) Possible lack of or revocable nature of the right, if any, to maintain or use any space, facilities or appurtenances outside the boundaries of a property or the building lines, whether on, over or under the ground, including, without limitation, all vaults, marquees, signs and sidewalk openings.

(8) Possible easements over or failure of title to that part, if any, of any property lying in or under the bed of any street, road or highway, open or proposed, on, in from of or adjoining the premises as such street, road or highway is presently or was formerly laid out, or is shown on any filed map.

(9) The Mortgage.

(10) The Digas License Agreement.

(11) Covenants and restrictions in deed dated April 28, 1961 and recorded May 3, 1961 as document 18152214 that premises in question should not be used for a retail super market grocery business provided this prohibition shall not apply to a department store with food department nor a delicatessen not excess of 10,000 square feet.

(12) Easement for telephone and electric service, together with right of access to the Premises as created

by Grant to Commonwealth Edison Company and the Illinois Bell Telephone Company recorded August 17, 1961 as document 18250078.

(13) Easement for a sanitary sewer over the North 15 feet of the South 60 feet as shown on the plat dated April 1, 1960 known as C 1337 and plat dated May 11, 1961 known as D 852 of the Mulford Engineering Service of Chicago Heights, and referred to in agreement between Chicago Title and Trust Company as trust No. 35881 to Bonobest Development Corporation dated August 10, 1961 and recorded August 22, 1961 as document 18254389.

(14) Easement for an 8 inch sanitary sewer line dated December 1, 1961 and recorded February 23, 1962 as document 18408598 made by Bonobest Development Corporation to the Kroger Company.

(15) Easement for telephone and electric service, together with right of access to the Premises as created by Grant to Commonwealth Edison Company and Illinois Bell Telephone Company recorded September 13, 1962 as document 18589611.

(16) Party walls on East and West lines of the Premises.

(17) Agreement dated April 15, 1971 between Seller and The Kroger Co, as amended by letter dated May 20, 1971.

2. Purchase Price

2.1 The purchase price for the Premises is $725,000.00 to be paid as follows:

(a) $54,850.00 by check, subject to collection, on the signing of this contract.

(b) $493,659.20 at Closing in cash;

(c) $176,490.80 by taking subject to but in no way assuming the Mortgage provided, however, that if any principal payments, including a prepayment in whole or in part of the Mortgage, be made by the Seller, those principal payments, together with all costs incurred in making those payments, including but not limited to all prepayment penalties, shall be added to the amount in (b) to be paid in cash.

2.2 All closing cash payments shall be made by certified or official bank check drawn on or by a New York Clearinghouse member bank and payable to Seller.

2.3 The closing cash payments (the "Escrow Fund") shall be paid to Shea Gould Climenko & Casey, Esqs. ("Escrow Agent") to be held in escrow for a period of seven (7) days following the date of Closing (the "Escrow Period"). At the end of the Escrow Period the Escrow Agent shall pay the Escrow Fund to Seller. If, however, Buyer shall notify Seller and the Escrow Agent by notice delivered before the end of the

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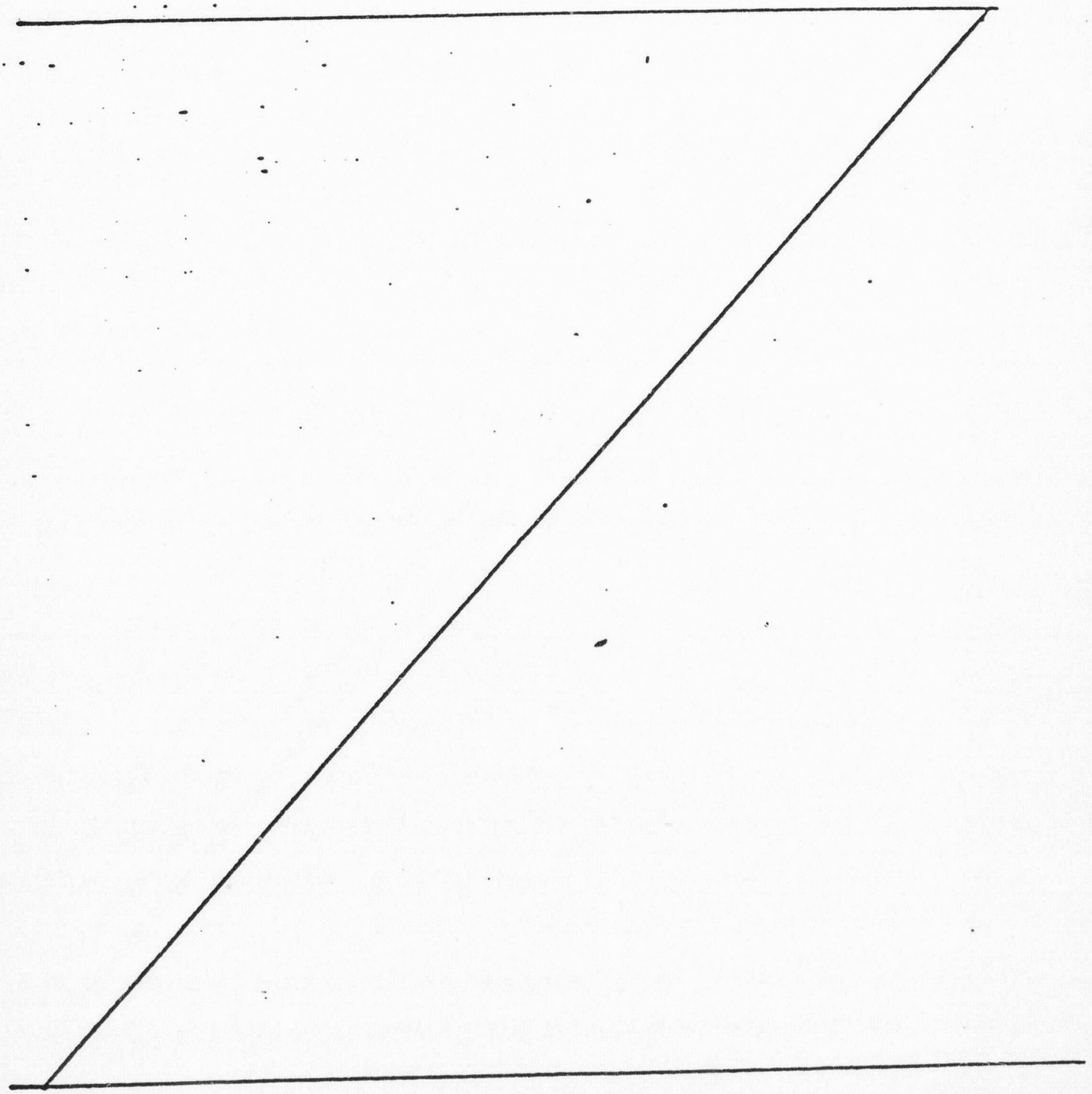
Escrow Period that Buyer's title insurance company is not prepared to issue its insurance policy pursuant to 5.1 hereof because Seller is unable to convey to Buyer title to the Premises in accordance with and subject to this Agreement, the Escrow Agent shall pay the Escrow Fund to Buyer, subject to 5.2 of this Agreement.

The parties authorize the Escrow Agent, without creating any obligation on the part of the Escrow Agent, in the event this Agreement or the Escrow Funds become involved in litigation, to deposit with the Clerk of the Court in which such litigation is pending the Escrow Funds and, thereupon, the Escrow Agent shall be fully relieved and discharged of any further responsibility hereunder. In addition, the Escrow Agent is hereby authorized, in the event it is threatened with litigation, to interplead all interested parties in any court of competent jurisdiction and to deposit with the Clerk of such Court the Escrow Funds and, thereupon, the Escrow Agent shall be fully relieved and discharged of any further responsibility hereunder.

The Escrow Agent shall not be liable for any mistake of fact or error of judgment or any acts or omissions of any kind unless caused by its wilfull misconduct or gross negligence. The Escrow Agent shall be entitled to rely on any instrument or signature believed by it to be genuine and may assume that any person purporting to give any writing, notice

or instruction in connection with this letter is duly authorized to do so by the party on whose behalf such writing, notice or instruction is given.



3. Covenants

3.1 Buyer agrees, as follows:

(a) To pay all taxes, and charges in the nature of or in lieu of taxes, and filing and recording fees arising out of this contract or the Escrow Agreement, or the sale, assignment or transfer of the Premises, or the delivery, filing or recording of the deed, assignments of lease or other instruments of conveyance or transfer and to indemnify and hold the Seller harmless therefrom.

(b) Buyer agrees for a period of three years following the Closing to make available to the Seller for inspection and copying at reasonable times upon reasonable advance request all records of the Seller delivered to Buyer in connection with the Closing.

3.2 The parties agree, as follows:

(a) All certiorari proceedings pending on the Closing with respect to the Premises for the reduction of the tax assessment for years prior to the current fiscal tax year may, at the Seller's election, be continued by the Seller and the Seller shall have the right to make any settlement thereof without Buyer's approval and shall be entitled to retain

savings and refunds obtained therefrom. Buyer acknowledges that proceedings before the Board of Appeals of Cook County have resulted in a reduction in the assessed valuation of the Property in accordance with the letter dated March 9, 1976 from Max Earl Sherman, Esq., 100 N. LaSalle Street, Chicago, Illinois ("Sherman"), a copy of which is attached hereto and marked Exhibit 3.2. The net amount of any reduction in the real estate taxes for the current fiscal tax year (and any prior tax year on account of which payments are made in the current year), whether by way of refund, credit or other savings, shall be apportioned between the Seller and Buyer, after the payment of attorneys' fees, experts' fees and other disbursements, in the same manner as provided in 8.4; provided however that Seller's liability for the legal fees and disbursements of Sherman shall not exceed, and Seller agrees to pay to Sherman, 25% of the tax savings received by Seller on account of the proceedings concluded by Sherman and Buyer agrees to pay and hereby indemnifies and holds Seller harmless against the balance of legal fees and disbursements payable to Sherman pursuant to Exhibit 3.2.

(b) Any dispute arising out of or in connection with this contract or the making hereof shall be submitted by the parties for resolution to the District Court. Buyer agrees he will not, and waives all right to, file a lis pendens in connection with any dispute hereunder. Following the Closing,

Buyer shall have no right of rescission for any representation, agreement or promise of the Seller surviving the Closing.

(c) Seller and Buyer shall use their best efforts to perform with reasonable dispatch the acts to be done by each of them to satisfy the conditions precedent to the Closing.

(d) At any time and from time to time after the Closing, each party hereto shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such additional instruments or documents and shall take or cause to be taken such further action as the party may reasonably request to evidence and effectuate the transactions contemplated under this contract.

4. Conditions Precedent

4.1 As conditions precedent to Buyer's obligation to purchase the Premises, and to perform its other obligations under this contract:

(a) The Final Order shall have been obtained.

(b) No event described in 5 or 6 which would permit Buyer to elect to terminate this contract shall have occurred.

(c) All of the documents to be delivered by the Seller pursuant to 7 shall be delivered.

(d) The licensee under the Digas License Agreement shall have waived its right, if any, to terminate the Digas License Agreement or require the licensor under that agreement to purchase any of the licensee's property by reason of the closing of the store operated by Topps of Chicago Heights, Inc. on the Premises or the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, provided that Buyer shall have agreed to the reasonable satisfaction of such licensee to recognize such licensee as his tenant.

4.2 As conditions precedent to Seller's obligation to transfer the Premises:

(a) The Final Order shall have been obtained.

(b) Buyer shall have duly tendered the payments and the instruments described in 2, 3 and 7.

(c) The licensee under the Digas License Agreement shall have waived its right, if any, to terminate the Digas License Agreement or require the licensor under that agreement to purchase any of the licensee's property by reason of the

Heights, Inc. on the Premises or the termination of the lease between Illinois Topps Realty Corp., lessor, and Topps of Chicago Heights, Inc., lessee, provided that Buyer shall have agreed to the reasonable satisfaction of such licensee to recognize such licensee as his tenant.

5. Title and Title Insurance

5.1 Buyer, at its sole cost, shall make application promptly after the date hereof to a title insurance company for its commitment to Buyer to issue upon the payment of its regular premium an ALTA Standard Form B, 1970 revision, title insurance policy insuring the Buyer's Marketable Title to Premises in the amount being paid therefor as specified in 2 of this contract, subject only to Permitted Encumbrances. Buyer shall notify the Seller as promptly as possible and in any event not later than five (5) days following the date of delivery to Buyer of the preliminary title report and prior to Closing of any exceptions, defects or objections which Buyer claims are not Permitted Encumbrances. Failure to give such notice shall not, however, constitute a waiver of any such exception, defect or objection.

5.2 If at Closing the Seller is unable to convey to Buyer title to the Premises subject to and in accordance with the provisions of this contract or is unable to fulfill any condition to Buyer's obligations under this contract, the Seller shall be entitled, upon written notice delivered to Buyer at or prior to the Closing, to reasonable adjournments of the Closing date one or more times, for not exceeding 60 days in

the aggregate, to enable the Seller to convey such title or fulfill any such condition under this contract. If the Seller does not so elect to adjourn the Closing, or if at the adjourned date the Seller is unable to convey title subject to and in accordance with the provisions of this contract, then either (i) Buyer may terminate this contract by written notice delivered at or prior to the date fixed for Closing as provided in 1.2(c) hereof, or the adjourned date, as the case may be, whereupon this contract shall terminate and neither party shall have any obligations of any nature to the other hereunder or by reason hereof, except that the provisions of 3.2(b), 10, 14, 18 and 22 hereof shall survive such termination and the Seller shall pay the amount paid under 2.1(a) to Buyer, or (ii) Buyer may elect, as permitted by 5.3 hereof, to take such title as the Seller is able to convey. The failure of Buyer to give the Seller notice of termination as provided in subdivision (i) above shall be deemed an electrion by Buyer to take such title as the Seller is able to convey, and, in such event, the Closing date shall be automatically adjourned for a period (or additional period, as the case may be) of fiteen (15) days. If the Seller elect to adjourn the Closing as provided above, this contract shall not

be deemed to require Seller to take or bring any action or proceeding or any other steps to remove any defects in or objection to title or to fulfill any such condition of the performance of this contract or to expend any moneys therefor, and, in the event Seller elects not to take any such steps, Buyer shall not have any right of action against Seller in law or in equity, for damages or specific performance.

5.3 Buyer at any time may accept such title as Seller can convey, without reduction of the purchase price or any credit or allowance on account thereof or any claim against Seller. The acceptance of the closing documents by Buyer shall be deemed to be full performance of, and discharge of, every agreement and obligation on the part of Seller to be performed hereunder as a condition precedent to Buyer's obligations.

5.4 Each party shall deliver to the other party or to Buyer's title insurance company such duly executed and acknowledged or verified certificates, affidavits and other documents respecting the power and authority to perform the obligations hereunder and as to the due authorization thereof by appropriate corporate, partnership or other proceeding and as to the authority of the officer, partner or other represen-

tatives acting for it at the Closing, as counsel for the other party or Buyer's title insurance company may reasonably request.

5.5 If the Premises shall, at the time of Closing be subject to any liens such as for judgments or transfer, inheritance, estate, franchise, license or other similar taxes or any encumbrances or other title exceptions which would be grounds for Buyer to reject title hereunder, the same shall not be deemed an objection to title provided that, at the time of Closing, Buyer's title insurer will issue or bind itself to issue a policy which will insure Buyer against collection thereof from or enforcement thereof against the Premises, (i) for a premium computed at regular rates, or (ii) for a premium in excess of the premium computed at regular rates, provided Seller shall pay the amount of such excess attributable to such insurance against collection from or enforcement against the Premises. If request is made within a reasonable time prior to the date of Closing, Buyer agrees to provide at the Closing separate certified or official bank checks, as requested, aggregating the amount of the cash to be paid to the Seller at the date, to facilitate the satisfaction of any of such liens or other defects, and the existence of any thereof shall not be deemed defects in or objections to title if Seller shall deliver at the Closing instruments, in recordable form, sufficient to satisfy the same, together with the cost of recording or filing thereof.

5.6 The expenses of the examination of title and a survey of the Premises shall not be liens on the Premises.

6. Casualty and Condemnation

6.1 The risk of any loss by fire or other casualty or by the taking of the Premises or any part thereof by eminent domain shall be assumed solely by Seller until Closing, provided, however, that in the event of damage to or destruction of not more than 5% of the Improvements or the taking of not more than 5% of the Premises, this contract shall remain in force, and, subject to the rights of the holder of the Mortgage, the Seller shall pay over to Buyer the amount of the insurance proceeds collected or condemnation award allowed to the extent not applied to the restoration or repair of the Premises or, if any proceeds or award has not been collected, Seller shall assign to Buyer all its right, title and interest in and to the same.

6.2 If more than 5% of the Improvements on the Premises shall be damaged by fire or other casualty and shall not be substantially restored or repaired by Closing, or if more

than 5% of the Premises shall be taken by eminent domain, then Buyer may, at its option, (i) terminate this contract with respect to the Premises so damaged or taken or (ii) elect to proceed as provided in 6.1 with respect to damage to not more than 5% of the Improvements or a taking of not more than 5% of those Premises. Upon termination pursuant to the preceding sentence, the obligations of each party to the other shall terminate except that the provisions of 3.2(b), 10, 14, 18 and 22 shall survive and Seller shall pay the amount paid under 2.1(a) to Buyer.

6.3 If any event described in 6 shall occur, the provisions of 6 shall control, and the Uniform Vendor and Purchaser Act or similar laws shall not be applicable.

7. Closing Documents

7.1 Seller shall deliver the following at Closing subject to and in accordance with this contract:

(a) A deed to the Premises, conveying Marketable Title to Buyer. The deed shall be a bargain and sale deed without covenant against grantors acts, or similar form, executed in form for recording and shall recite the full pur-

chase price. The Seller, at its option, may omit from the deed the recital of any or all of the Permitted Encumbrances, but the Premises shall nevertheless be deemed to have been transferred subject to the same and the provisions of this sentence shall survive delivery of the deed.

(b) The Real Estate Transfer Declaration as required by the Illinois Department of Revenue.

(c) An assignment, without representation, warranty or recourse of all right, title and interest of the Seller as licensor under the Digas License Agreement, together with such correspondence and other records, if any, pertaining to that agreement which Seller has available.

(d) A currently dated letter or certificate from the holder of the Mortgage with respect thereto, executed by a duly authorized officer thereof, stating that there have been no amendments or modifications thereof, the amount of the unpaid principal balance secured thereunder which shall not exceed the sum of $176,490.80 the date of maturity thereof, the last date to which interest thereunder shll have been paid, the amount of any deposits being held by such holder thereunder, and the items comprising such deposits

and to the best knowledge of such holder, such mortgage is not in default and no event or condition has occurred which with notice or lapse of time or both would constitute such a default.

The letter or certificate of the holder of the mortgage shall consent to the termination of the lease between Illinois Topps Realty Corp., Lessor and Topps of Chicago Heights, Inc., lessee and to the release of the guarantor of that lease and shall release the lessee and guarantor from all liabilities and claims arising out of the lease and guaranty thereof.

(f) All original documents and writings relating to the continuing ownership and operation of the Premises including certificates of occupancy.

7.2 Buyer shall deliver the following at Closing subject to and in accordance with this contract:

(a) The payments described in 2 and 3 of this contract.

(b) Assumptions of all of the licensor's obligations under the Digas License Agreement from and after the date of Closing, and agreements to indemnify and

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hold harmless the Seller from all claims, losses, liabilities and expenses, including attorneys' fees, arising out of Buyer's failure to perform or comply with any such obligations.

8. Adjustments

At Closing, the following adjustments on the basis of a 12-month year - 30 day month shall be made between the parties.

8.1 Rents (including tax escalation) under the Digas License Agreement when, as and if collected, subject to the following:

The payments collected on account of the fixed rent shall be successively applied to the payment of (1) rents due and payable in the month in which the Closing occurs, (2) rents due and payable in the months succeeding the month in which the Closing occurs, up to and including the month in which payment is made, and (3) rents due and payable in the months preceding the month in which the Closing occurs, if any. Percentage lease rents shall be adjusted as of the Closing on the basis of the fiscal period under the percentage rental provision in the Digas License Agreement and shall be payable by Buyer when finally ascertained and received by Buyer. Rents

portioned as of the closing of title, subject to the provisions in 8.4 and 8.5, and shall be applied to satisfy in full the payment obligations of the tenant in the order in which those obligations become payable. Buyer shall cause all bills for percentage rental, tax and license fee payments for the periods prior to and including the Closing to be promptly delivered. Seller may enforce collection of rents (including percentage rental and tax escalation payments) for periods prior to the Closing by appropriate judicial proceedings (other than summary proceedings) and Buyer shall cooperate in such collection but without cost to it.

8.2 Interest on the Mortgage.

8.3 Premiums on transferable insurance policies, or renewals, in effect or as extended at Closing.

8.4 Real estate taxes (and any special assessments, water and sewer taxes or other charges payable in the same manner as real estate taxes). If the Closing shall occur before the tax rate is fixed, apportionment of real estate taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. If the Closing shall occur before final bills for fiscal 1975 have been issued to Seller, apportionment of real estate taxes shall be upon the basis of the 1975 or latest prior tax rate applied to the latest assessed valuation as set forth in Ex-

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8.5 Personal property taxes.

Except as herein expressly otherwise provided, the "Customs in Respect to Title Closings" adopted by the Real Estate Board of New York, Inc., shall apply to the above apportionments.

9. Representations; Condition of Property

9.1 Buyer acknowledges that:

(a) He is fully familiar and satisfied with the condition and repair of the Premises, the value, income, expenses and operation thereof and the uses which may be made of the Premises or any other matter with respect thereto, including, without limitation, the Digas License Agreement;

(b) He has inspected, or caused to be inspected, the Premises and has independently investigated, analyzed and appraised the value and the profitability thereof;

(c) Except as expressly set forth in this contract, neither Seller nor any agent or representative of Seller has made, and Seller is not liable for or bound in any manner by, any express or implied warranties, guarantees, promises, statement, inducements, representations or information pertaining to the Premises, or any part thereof, the

physical condition, income, expenses or operation thereof, the uses which can be made of the same or any other matter or thing with respect thereto, including, without limitation, any leases, and that without limiting the foregoing, except as expressly set forth in this contract, Seller is not liable for or bound by (and Buyer has not relied upon) any verbal or written statements, representations, real estate brokers' "set-ups" or any other information respecting the Premises furnished by the Seller or any broker, employee, agent, consultant or other person representing or purportedly representing the Seller.

(d) No responsibility has been assumed by Seller as to the condition or repair of the Premises or the value thereof or as to any other fact or condition which has or might affect the Premises or the condition, repair, value, expense of operation or income potentials thereof.

9.2 Buyer, by acceptance of the closing documents, shall accept the Premises in the condition in which they are at the time of the execution of this contract, ordinary wear and tear excepted.

10. Brokerage

The parties hereto represent that no broker has been involved with the negotiations of this contract and the purchase of the Premises pursuant hereto and that no broker is entitled to a commission in connection with this transaction.

11. Buyer's Default

In the event Buyer shall default in the performance of Buyer's obligations under this contract, Seller may retain all sums paid by Buyer under 2.1 as liquidated damages or have recourse to such rights, relief and remedies as may be available at law or in equity.

12. Assignments

No assignment hereof by Buyer shall be valid unless a duplicate original thereof containing an assumption by the assignee or assignees, in form satisfactory to the Seller, shall be delivered to the Seller. No assignment shall relieve Buyer from performance of the obligations undertaken by Buyer under this contract.

13. Notices

All notices, requests, consents and other communications required or permitted to be delivered hereunder shall be in writing and shall be delivered by Registered or Certified Mail, postage and registration or certification charges prepaid as follows:

To Buyer at:	Mr. John E. Hancock 3100 Bernice Road Lansing, Illinois 60438
and, to the Seller or any member thereof at:	c/o Samuel W. Ingram, Jr., Esq. Shea Gould Climenko & Casey 330 Madison Avenue New York, New York 10017

Any party hereto may, from time to time, designate any other address to which such notice, request, consent or other communication addressed to it shall be sent. All such communications shall be effective on delivery.

14. Expenses

Whether or not the transactions contemplated under this contract are consummated, each party hereto shall pay his own expenses incident to the preparation and performance of this contract, including, without limitation, attorneys' fees.

15. Survival of Agreements

All covenants, agreements, representations and warranties made herein shall survive the execution and delivery of this contract and the consummation of the transactions contemplated herein.

16. Entire Agreement

This contract (including all schedules annexed hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings, if any, with respect thereto. This contract may not be modified, changed, supplemented or terminatedd, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by his agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

17. Waivers; Extensions

No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

18. No Recording

The parties each agree that neither this contract nor any memorandum or notice thereof shall be recorded.

19. Counterparts; Captions

This contract may be executed in counterparts, each of which shall be deemed an original. The captions are for convenience of reference only and shall not affect the construction to be given any of the provisions hereof.

20. Pronouns; Joint and Several Liability

All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the parties may require. If the Buyer consists of two or more parties, the liability of such parties shall be joint and several.

21. Claims

Whenever any party shall learn through the filing of a claim or the commencement of a proceeding or otherwise of the existence of any liability for which another party is or may be responsible under this contract, such party shall notify the other party promptly and furnish such copies of documents (and make originals thereof available) and such other information as such party may have which may be used or useful in the defense of such claims and shall afford said other party full opportunity to defend the same in the name of any party and shall generally cooperate with the other party in the defense of any such claim.

22. No Personal Liability of Trustees

It is expressly agreed that the obligations of Seller under or with respect to this contract do not constitute personal obligations of the Trustees or any of them and shall not involve any claim against, or liability on the part of, any of them and that Buyer will look solely to the assets of Illinois Topps Realty Corp. in respect of any claim under or with respect to this contract and will not seek recourse against the Trustees or any of them or any of their personal assets.

23. The parties agree that if Closing has not occurred by 11:59 P.M., December 1, 1976, this contract, unless extended in writing, shall terminate and neither party shall have any obligations of any nature to the other hereunder or by reason hereof, except that the provisions of 3.2(b), 10, 14, 18 and 22 hereof shall survive such termination and the Seller shall pay the amount paid under 2.1(a) to Buyer.

IN WITNESS WHEREOF, the parties have duly executed this contract as of the day and year first above written.

Joseph R. Crowley

Herbert B. Siegel

as Trustees of Illinois Topps Realty Corp., a corporation in proceedings for reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York under File Nos. 74B614-802, inclusive, and not individually

John E. Hancock

Schedule 1.2(b)

That part of Lot 'B' in North side division being a Subdivision of the South 700 feet of the North 740 feet of that part of the South half of Section 17, Township 35 North, Range 14 East of the Third Principal Meridian lying West of Westerly right of way line of Chicago Road (also known as Chicago Vincennes Road) and lying East of Easterly right of way of Dixie Highway. Beginning at a point 10 feet South of the North line of said Lot 'B' and 400 feet East of the North East corner of Lot 'A' in North Side Division of aforesaid East along a line 10 feet South of and parallel to North line of said Lot 'B' a distance of 596 feet thence South on a line perpendicular to last described line a distance of 490 feet thence West on a line parallel with North line of said Lot 'B' a distance of 596 feet to a point 400 feet East of East line of said Lot 'A' extended South thence North to point of beginning, in Cook County, Illinois.

Personal Property

Any conveyors, accessories and spare parts for same located on the premises at 160 JOE ORR ROAD, CHICAGO HEIGHTS, ILLINOIS, together with all heating, plumbing and electrical appliances, if any, located thereon, without warranty or representation, express or implied.

Schedule 1.2f

LAW OFFICES
SOL I. DVORKIN
MAX EARL SILBERMAN

SUITE 2310
100 NORTH LA SALLE STREET
CHICAGO, ILLINOIS 60602
FRANKLIN 2-1407

RECEIVED
MAR 11 1976
TAX DEPT.

March 9, 1976

Mr. N. J. Loizzi
Interstate Stores
Tax Department
111 Eighth Avenue
New York City, New York 10011

RE: 1975 Quadrennial Assessment
160 Joe Orr Road, Chicago Heights, Ill.

Dear Nick:

Pursuant to the order of bankruptcy court on December 11, 1975, we proceeded with a complaint before the Cook County Board of Appeals relative to the tax assessment for 1975 on your Store No. 88 in Chicago Heights, Illinois.

The assessment for 1975 was $490,054.00. As a result of a hearing on the complaint, a reduction was obtained in the assessed valuation as indicated below, and I am enclosing herewith an official notice of the Board of Appeals of the reduction.

	Original	Revised	Decrease
Assessment	490,054	272,003	218,051

Applying the present equalization factor of 1.4453 and the tax rate of $9.121 per $100.00 of assessed valuation, results in a tax savings of $28,744.74 for each of the years 1975, 1976, 1977 and 1978.

In January you received a first installment bill which was predicated on the old 1974 assessed valuation. As I indicated by my letter of January 29, 1976, this was an estimate

EXHIBIT 3.2

March 9, 1976

Mr. N. J. Loizzi
Interstate Stores
Tax Department

RE: 1975 Quadrennial Assessment
160 Joe Orr Road, Chicago Heights, Ill.

to enable the County Treasurer to obtain money in advance against the total 1975 bill. The second installment would have been based upon the assessment of $490,054.00 if a complaint had not been filed. As it now stands, you will receive a bill for the second installment based upon the revised assessment of $272,003.00 and you will receive credit for the amount paid on the first installment against the total taxes for 1975, based upon the revised assessment.

I am enclosing herewith a statement setting forth the fees due, pursuant to the order of bankruptcy court confirming our arrangement. I have, however, indicated that this fee should be spread over the four years of the quadrennial. The purpose in doing this is because there is a potential that the Assessor may change the assessment in any one of the quadrennial years. Therefore, we will continue to follow this matter and to make the appropriate complaints and take the appropriate action, and revise the statement of fees whenever and if ever such action becomes necessary.

Yours very truly,

Max Earl Sherman

MES:ck
Enclosure

cc: Joel I. Papernik

MAX EARL SHERMAN & JOEL A. STORCH

160 NORTH LA SALLE STREET

CHICAGO, ILLINOIS 60602

FRANKLIN 2-1487

March 9, 1976

estate Department Stores
inois Topps Realty Corp.
Eighth Avenue
York City, New York 10011

Professional Services Rendered

RE: Proceedings before Board of Tax Appeals with reference to the 1975 Quadrennial Assessment for the peiod 1975, 1976, 1977 and 1978 for the property located at 160 Joe Orr Road in Chicago Heights, Illinois.

Volume 13, Perm. Index No. 32-17-302-025

Fees based upon 25% of tax savings for each of said years (1975, 1976, 1977 & 1978) $28,744.74

Said fees payable as follows:

Due presently	$7,186.19
Due March 1, '77	7,186.19
Due March 1, '78	7,186.18
Due March 1, '79	7,186.18

"A lawyer's time and advice are his stock in trade"
- Lincoln -

HARRY H. SEMPON
Commissioner

SEYMOUR ZABAN
Commissioner

B. A. Notice #46-4

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RY H. SEMROW
COMMISSIONER

SEYMOUR ZABAN
COMMISSIONER

BOARD OF APPEALS OF COOK COUNTY
ROOM 601 COUNTY BUILDING
TELEPHONE 443 - 5341
CHICAGO, ILLINOIS 60602

RECEIVED
MAR 11 1976
TAX DEPT.

NOTICE OF REDUCTION IN ASSESSED VALUATION

Complaint No. 17246

Vol. 13 Permanent Index No. 32-17-302-025

Dear Complainant:

Harry H. Semrow and Seymour Zaban, Commissioners of the Board of Appeals of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce your assessed valuation as follows:

Assessor's 1975 Assessed Valuation 490054 Reduced 1975 Assessed Valuation 272003

The corrected Assessed Valuation will be equalized by the Illinois Department of Local Government Affairs, as provided by law.

Very truly yours,

HARRY H. SEMROW
Commissioner

SEYMOUR ZABAN
Commissioner

B. A. Notice #65

HARRY H. SEMROW
MEMBER

SEYMOUR ZABAN
MEMBER

BOARD OF APPEALS OF COOK COUNTY

ROOM 601, COUNTY BUILDING
TELEPHONE 443-5542
CHICAGO, ILLINOIS 60602

NOTICE OF REDUCTION IN ASSESSED VALUATION

Complaint No. 17246

Vol. 13 Permanent Index No. 32-17-302-025

Dear Complainant:

Harry H. Semrow and Seymour Zaban, Members of the Board of Appeals of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce your assessed valuation as follows:

Assessor's 1975 Assessed Valuation $92,054 Reduced 1975 Assessed Valuation 272003

The corrected Assessed Valuation will be equalized by the Illinois Department of Local Government Affairs, as provided by law.

Very truly yours,

HARRY H. SEMROW
MEMBER

SEYMOUR ZABAN
MEMBER

B.A. NOTICE 3REJ2-3

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -x

In re	:	Reorganization Nos. 74 B 614-802 Inclusive
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	NOTICE OF SALE AND NOTICE OF HEARING
Debtors.	:	

- -x

NOTICE is hereby given that the day of September, 1976 at in the M. of that day, in Room 236, United States Courthouse, Foley Square, New York, New York, has been fixed as the time and place for a hearing for the consideration of an application by the Reorganization Trustees of the above-captioned debtors for authority to:

(a) Sell to John E. Hancock, or his assignee, the property and improvements located at 160 West Joe Orr Road, Chicago Heights, Illinois (the "Chicago Heights Property") for a purchase price of $548,509 over and above the existing first mortgage lien in the approximate sum of $176,490, which the purchaser is assuming, upon the terms and conditions specified in the contract of sale annexed to the aforesaid application (the "Hancock Offer") or, in the alternative

(b) Sell the Chicago Heights Property to any person, firm or corporation who or which may make a higher or better offer therefor than the Hancock Offer, prior to or at the aforesaid hearing, subject, however, to such terms and conditions of sale as may be announced at the aforesaid hearing and approved by the Court.

NOTICE IS FURTHER GIVEN that additional information with respect to the Chicago Heights Property may be obtained from the Trustees by contacting Mr. Jeffrey Finkel at the offices of Interstate Stores, Inc., 111 Eighth Avenue, New York, New York 10011 ((212) 741-6243), or by contacting Messrs. Shea Gould Climenko & Casey, attorneys for the Trustees, at 330 Madison Avenue, New York, N.Y. 10017 ((212) 661-3200), attention: Robert W. Claeson, Esq. A copy of the Trustees' application and the Exhibits thereto are on file with the Clerk of the Bankruptcy Court, at the offices of the Trustees and at the offices of the attorneys for the Trustees, and may be inspected by interested parties during normal business hours.

HIGHER BIDS OR OFFERS TO PURCHASE
THE CHICAGO HEIGHTS PROPERTY IS
HEREBY INVITED

NOTICE IS FURTHER GIVEN that the aforesaid hearing may be adjourned from time to time without notice other than the announcement of the adjourned date or dates at such hearing.

BY ORDER OF THE COURT

Dated: New York, New York
August , 1976

Joseph R. Crowley and Herbert B. Siegel, Trustees
c/o Interstate Stores, Inc.
111 Eighth Avenue
New York, N.Y. 10011
(212) 741-6200

SHEA GOULD CLIMENKO & CASEY
Attorneys for the Trustees
330 Madison Avenue
New York, N.Y. 10017
(212) 661-3200

EXHIBIT C

Levin & Weintraub, Esqs.
225 Broadway
New York, New York 10007

Securities and Exchange
Commission
26 Federal Plaza
New York, New York 10007

White & Case, Esqs.
14 Wall Street
New York, New York 10005

Zalkin, Rodin & Goodman, Esqs.
750 Third Avenue
New York, New York 10017

Popper & Popper, Esqs.
200 Fifth Avenue
New York, New York 10010

Leinwand, Maron, Hendler &
Krause, Esqs.
10 East 40 Street
New York, New York 10016

Milbank, Tweed, Hadley & McCloy, Esqs.
One Chase Manhattan Plaza
New York, New York 10005

Emmet, Marvin & Martin, Esqs.
48 Wall Street
New York, New York 10005

Debevoise, Plimpton, Lyons &
Gates, Esqs.
299 Park Avenue
New York, New York 10017

Cadwalader, Wickersham & Taft, Esqs.
One Wall Street
New York, New York 10005

Phillip B. Johnson, Esq.
205 Seventh Street
Rockford, Illinois 61104

Matsen, Cory, Matsen & Sprague
1117 Washington Building
Seattle, Washington 98101

Vladeck, Elias, Vladeck & Lewis
1501 Broadway
New York, New York 10036

Henderson, Daily & Foxworthy
2450 One Indiana Square
Indianapolis, Indiana 46204

Robert Schwartz, Esq.
350 Park Avenue
New York, New York

Mr. Thomas E. Loesser
General Mills
912 Sycamore Street
Cincinnati, Ohio 45202

Bader & Bader
274 Madison Avenue
New York, New York 10016

Zissu Lore Halper & Robson
450 Park Avenue
New York, New York 10022

Fried, Frank, Harris,
Shriver & Jacobson
120 Broadway
New York, New York
Att: Leslie A. Jacobson, Esq.

Mr. Arthur W. Lichenstein
60 East 42nd Street
New York, New York 10017

Massachusetts Mutual Life Insurance Company
1295 State Street
Springfield, Mass. 01111
Attn.: Warren R. Wise, Esq.

John M. Kaveny, Esq.
11 S. LaSalle Street, Suite 705
Chicago, Illinois 60603

Seymour Fagan, Esq.
Fagan, Klugman, Monroe & Edell
9171 Wilshire Boulevard
Beverly Hills, Calif. 90210

Dominick's Finer Foods, Inc.
555 Northwest Avenue
Northlake, Ill. 60164
Attn.: E.R. Hersey, Esq.

Golenbock & Barell
645 Fifth Avenue
New York, N.Y. 10022

AMF Incorporated
c/o Rogers, Hoge & Hills
90 Park Avenue
New York, N.Y. 10016

Order of Bankruptcy Judge Ryan Dated 8/13/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -x

In re	:	Reorganization Nos. 74 B 614-802 Inclusive
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	
Debtors.	:	ORDER

- -x

At New York, New York, in said District on the 13th day of August, 1976

Upon the annexed application and sufficient cause appearing therefor, and no adverse interest having been represented,

NOW, on motion of Shea Gould Climenko & Casey, attorneys for the Trustees herein,

This Court hereby determines, pursuant to Chapter X Rule 10-209(b)(4), that notice of the hearing on the aforementioned application of the Trustees to sell property located in Chicago Heights, Illinois need not be sent to all creditors, stockholders, and indenture trustees of the debtors herein, for the following reasons:

1. The proposed purchase price is about 1/2 of 1% of the debtors' consolidated assets.

2. The proposed purchase price exceeds the appraised value.

3. There are over 16,000 creditors and stockholders of the debtors, and the cost of sending notice is substantial.

4. Notice will be sert to all persons who have filed statements under Section 210 and 211 of the Bankruptcy Act, and the Securities and Exchange Commission, which are a representative group of creditors and interested parties.

5. The Trustees will publish a notice of the hearing and proposed sale in a major Chicago newspaper.

Therefore, it is

ORDERED, that a hearing shall be held before the undersigned Bankruptcy Judge at the United States Courthouse, Foley Square, New York, New York, Room 236, on the 10th day of September, 1976 at 9:30 A.M., or as soon thereafter as counsel can be heard, to consider the aforesaid application of the Trustees to sell the property located in Chicago Heights, Illinois; and it is further

ORDERED, that service of a notice substantially in the form annexed to the aforesaid application as Exhibit B shall be mailed to those persons set forth on Exhibit C annexed to said application on or before August 18th, 1976, and a copy of such notice shall be published one time in a major Chicago newspaper on or before August 25th, 1976, and service and publication of such notice shall be deemed good and sufficient service.

S/ Edward T. Ryan

Bankruptcy Judge

Notice of Sale and Notice of Hearing Dated 8/17/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -x

In re	:	Reorganization Nos. 74 B 614-802 Inclusive
INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al.,	:	NOTICE OF SALE AND NOTICE OF HEARING
Debtors.	:	

- -x

NOTICE IS HEREBY GIVEN, that the 10th day of September, 1976 at 9:45 o'clock in the forenoon of that day, in Room 236, United States Courthouse, Foley Square, New York, New York, has been fixed as the time and place for a hearing for consideration of an application by the Reorganization Trustees of the above-named Debtors, for authority to:

(a) Sell to John E. Hancock, or his assignee, the real property and improvements located at 160 West Joe Orr Road, Chicago Heights, Illinois (the "Chicago Heights Property") for a purchase price of $548,509 over and above the existing first mortgage lien in the approximate sum of $176,491 (provided the cash above the mortgage shall be increased by the aggregate of any principal reductions in the mortgage), upon the terms and conditions specified in the contract of sale annexed to the aforesaid application (the "Hancock Offer") or, in the alternative

(b) Sell the Chicago Heights Property to any person, firm or corporation who or which may make a higher or better offer therefor than the Hancock Offer, prior to or at the aforesaid hearing, subject, however, to such terms and conditions of sale as may be announced at the aforesaid hearing and approved by the Court.

SUMMARY DESCRIPTION OF PROPERTY

An approximately 12 year old, free standing, single occupant, commercial center containing about 77,000 square feet of gross floor area on a site of approximately 6.71 acres.

Mortgage: Massachusetts Mutual Life Insurance Company, payable in constant monthly installments of $6,377 including interest at 6.25% per annum, due January 1, 1979.

License: To Digas Company of Delaware, to operate gasoline service station on portion of premises; terminates January 25, 1985; variable rental.

Restrictive Covenant: No retail super market, unless a food department of department store.

NOTICE IS FURTHER GIVEN that all sales shall be without representations and warranties and without recourse as against the Trustees, except as may be specifically approved by this Court. All offers must be accompanied by a deposit in the amount of 10% of the cash portion of the purchase price, payable in cash or by certified check. The Trustees shall have no liability to pay any brokerage commission.

NOTICE IS FURTHER GIVEN, that additional information with respect to the Chicago Heights Property may be obtained

from the Trustees by contacting Mr. Jeffrey Finkel at the offices of Interstate Stores, Inc., 111 Eighth Avenue, New York, New York 10011 ((212) 741-6243), or by contacting Messrs. Shea Gould Climenko & Casey, attorneys for the Trustees, at 330 Madison Avenue, New York, New York 10017 ((212) 661-3200), attention: Gilbert E. Rotkin, Esq. A copy of the Trustees' application and the Exhibits thereto are on file with the Clerk of the Bankruptcy Court, at the offices of the Trustees and at the offices of the attorneys for the Trustees, and may be inspected by interested parties during normal business hours.

HIGHER BIDS OR OFFERS TO
PURCHASE THE CHICAGO HEIGHTS
PROPERTY ARE HEREBY INVITED

NOTICE IS FURTHER GIVEN, that the aforesaid hearing may be adjourned from time to time without notice other than the announcement of the adjourned date or dates at such hearing.

BY ORDER OF THE COURT

Dated: New York, New York
August 17, 1976

Joseph R. Crowley and
Herbert B. Siegel, Trustees
c/o Interstate Stores, Inc.
111 Eighth Avenue
New York,N.Y. 10011
(212) 741-6200

SHEA GOULD CLIMENKO & CASEY
Attorneys for the Trustees
330 Madison Avenue
New York, N.Y. 10017
(212) 661-3200

J. Cannella's August 14, 1975 Order of Reference

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

In re : Reorganization
~~In Bankruptcy~~
Nos. 74 B 614-802,
Inclusive

INTERSTATE STORES, INC., formerly known as INTERSTATE DEPARTMENT STORES, INC., et al., :

ORDER

Debtors. :

----------x

At New York, New York, in said District, on the 14th day of August, 1975.

Upon the court's own motion, it is hereby

ORDERED, that any and all matters arising in the captioned cases, except as hereinafter provided, be and they hereby are referred pursuant to the provisions of Rule 10-103 of the Chapter X Rules to the Honorable Edward J. Ryan, as Bankruptcy Judge, to hear and determine and enter orders thereon, provided however that a copy of all proposed orders (which were heretofore presented to the undersigned) (other than orders relating to the form of notice of hearing to be given) shall be provided to the undersigned at least two (2) days prior to the entry thereof and a conformed copy of all such orders shall be provided to the undersigned within three (3) days of the entry thereof, and it is further

ORDERED, that any contempt proceeding in which the Bankruptcy Judge pursuant to Bankruptcy Rule 920 does not have authority to impose punishment and all adversary proceedings in which a complaint is filed pursuant to Section 2a(15) of the Bankruptcy Act, as amended, seeking an injunction to restrain a court, be and they hereby are referred to the Honorable Edward J. Ryan, as Special Master, generally to hear and report, and it is further

ORDERED, that in the absence or unavailability of the Honorable Edward J. Ryan, any of the Bankruptcy Judges of this District may act in his place, and it is further

ORDERED, that this court reserves the right and jurisdiction to make, from time to time, and at any time, such orders amplifying, extending, limiting or otherwise modifying this order as to the court may seem just and proper, and it is further

ORDERED, that the order of reference dated June 18, 1974, as amended by an order of July 1, 1974, be and it hereby is modified to the extent it is inconsistent with the terms of the within order.

/s/ John M. Cannella
United States District Judge

Service of three (6) copies of the within
is admitted this 6 day of Oct 1976

Joint Appendix

Stea Gould
& Beard
Atty(s) for Dobell
Appellee

Rogers Hoge & Hills
attys for Am F Inc, Appellee

Krause Hirsch & Gross &
Attorneys for John E Hancock
Appellee